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TO AMEND THE ALCOHOLIC BEVERAGE CONTROL
ACT OF THE DISTRICT OF COLUMBIA OF 1934, AS
AMENDED

HEARING
BEFORE THE
COMMITTEE ON
THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES
EIGHTY-FIFTH CONGRESS
FIRST SESSION
ON
H. R. 2510
RELATING TO THE SALE OF BEER IN CHAINSTORES

P91-83

JULY 15 AND 17, 1957

Printed for the use of the Committee on the District of Columbia



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1957

94577

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TO AMEND THE ALCOHOLIC BEVERAGE CONTROL
ACT OF THE DISTRICT OF COLUMBIA OF 1934, AS
AMENDED

MONDAY, JULY 15, 1957

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D. C.

The committee met, pursuant to call, at 11 a. m., in room 445-A, House Office Building, Hon. John L. McMillan, chairman of the committee, presiding, with the following members present: Mr. Abernethy, Mr. Smith of Virginia, Mr. Davis, Mr. Morrison, Mr. Wier, Mr. Multer, Mr. Dowdy, Mr. Matthews, Mrs. Granahan, Mr. Simpson, Mr. Miller, Mr. Allen, Mr. Broyhill, Mr. Hyde, and Mr. Holt.

Also present: William N. McLeod, Jr., clerk of the committee.

The CHAIRMAN. The committee will proceed with H. R. 2510, a bill to amend the Alcoholic Beverage Control Act of the District of Columbia of 1934, as amended.

Without objection, H. R. 2510 will appear in the record at this point.

(H. R. 2510 follows:)

[H. R. 2510, 85th Cong., 1st sess.]

A BILL To amend the Alcoholic Beverage Control Act of the District of Columbia of 1934, as amended
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12 (b) of the Alcoholic Beverage Control Act of the District of Columbia, approved January 24, 1934, is amended to read as follows:

“(b) No licensee holding a retailer's license, class C or class D, shall, by direct ownership, stock ownership, or interlocking directors, hold, directly or indirectly, any license other than retailer's license class C, class D, or class E. No licensee holding a retailer's license class A shall, by direct ownership, stock ownership, or interlocking directors, hold, directly or indirectly, more than one license except retailer's license class E. When used in this subsection the word 'licensee' shall include any stockholder holding directly or indirectly 25 per centum or more of the common stock or any officer of such licensee if such licensee is a corporation.”

The CHAIRMAN. I see we have our distinguished colleague Mr. Tuck. Would you like to speak on that?

STATEMENT OF HON. WILLIAM M. TUCK, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF VIRGINIA

Mr. TUCK. I would like to introduce Hon. James S. Easley, of Halifax, Va., and who is counsel for the Safeway Stores of Virginia, and who wishes to appear in support of H. R. 2510.

He is a very distinguished citizen of Virginia, and has been practicing law for more than 50 years. He was formerly a Virginia State senator,

and president of the Virginia State Chamber of Commerce, president of the Virginia State Bar Association, and one who has my unbounded confidence and respect. He is my neighbor and friend.

The CHAIRMAN. Mr. Easley, we are glad to have you with us this morning, and will be glad to hear any statement you have to make.

STATEMENT OF JAMES S. EASLEY, COUNSEL FOR SAFEWAY STORES, VIRGINIA

Mr. EASLEY. I think the only thing I can contribute to the committee would be an experience that I have had in a similar situation which arose in Virginia.

Some 10 or 12 years ago, as counsel for the Safeway Stores, I was directed by them to secure licenses for their 80 or 89 stores in Virginia, to handle beer on the theory that it would make it a food product.

I undertook to do that, and did secure the licenses for those stores. There was considerable objection in some sections of the State. The territory served by the Safeway Stores extends from Alexandria to Richmond, and down the Shenandoah Valley.

The objections apparently were from people who were prohibitionists. They were mostly religious sects who had a very firm conscientious conviction that the sale of any alcohol was bad. Down in the valley those sects were quite numerous. I cite this as an instance of the result of that contest: In Harrisonburg there was quite a vociferous objection to the granting of this license and a preacher in one of the denominations made the statement in the courthouse that his people all dealt with the Safeway Stores, but if they put beer into these stores, neither he nor any member of his congregation would purchase from these stores any more.

They appealed from the order of the examiner, and went before the Board, and tried the case there.

The license was granted. Since that time, not a customer has been lost in the store. And that has been true where all these objections came and I think they came from the fact that the operation of it was much more of a temperate thing than these people thought it was, and the result is that in Virginia, the operation is completely satisfactory, the ABC board is pleased with it, and have frequently mentioned the fact that it was the best way yet devised to handle alcoholic beverage. There is no trouble, no violations, and no difficulty in the handling of it, whereas, in the ordinary places that dispensed beer they have numerous cases before that board every month for violations of different regulations concerning the handling of beer, and severe penalties have to be administered and many of them lose their licenses.

That has been the situation. And the result is that there have been no objection to the operation of this plan.

The CHAIRMAN. Are there any questions of Mr. Easley this morning?

Mr. SIMPSON. How many Safeway Stores do you have in the District of Columbia?

Mr. EASLEY. 70, I think.

Mr. SIMPSON. You are in favor of granting a beer license to the 70 additional licensees?

Mr. EASLEY. Yes, sir.

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Mr. SIMPSON. That sort of conflicts with the testimony of Mr. Payne who said we have too many, now.

Mr. EASLEY. I don't know what Mr. Payne meant but I think he was thinking of the liquor store. Of course, when the Safeway Stores puts in the sale of beer, that does not convert it into a liquor store, it is a grocery store.

Mr. SIMPSON. There is some thought that beer is a food and won't get you drunk, but it will.

Mr. EASLEY. The Yale Study says it is not an intoxicating drink.

Mr. SIMPSON. You can get just as drunk on beer as you can on hard liquor.

Mr. EASLEY. The handling of beer in that manner is certainly more conducive to the temperate use of it than it is coming from a regular liquor store where every purchaser—the housewife who wants some beer for a beverage has to go into a liquor store to buy it.

Mr. SIMPSON. What about the little retail grocery store on the corner who doesn't handle beer, doesn't it give an advantage to Safeway Stores over them selling food?

Mr. EASLEY. It hasn't, apparently. I haven't heard any objection and they have the right to apply.

Mr. SIMPSON. I mean in Virginia.

Mr. EASLEY. Yes.

Mr. SIMPSON. You have an entirely different situation in the State of Virginia because you do not have bars and you do not sell liquor by the drink.

Mr. EASLEY. That is correct.

Mr. SIMPSON. And you do sell it in Washington by the drink?

Mr. EASLEY. Yes; it is sold in Washington by the drink.

Mr. SIMPSON. So in the State of Virginia, your liquor stores are State owned, aren't they?

Mr. EASLEY. Yes, sir.

Mr. SIMPSON. That is all.

Mr. SMITH. Mr. Easley, of course, any other grocery store operating as a single unit has the option of asking for a license, if they want it?

Mr. EASLEY. Yes, sir.

Mr. SMITH. And under proper conditions the board would no doubt give it to them because that is the law.

Now, the whole nub of this bill is this, that under the existing law only 1 license can be granted to 1 concern in the District of Columbia. If I own 2 grocery stores I can get a license in 1 of them over here but I couldn't have a license to sell over there. Is that true?

Mr. EASLEY. That is correct.

Mr. WIER. Would it be possible for your wife to get one?

Mr. SMITH. Well, I don't operate business in my wife's name.

Mr. WIER. I know, but a lot of people do.

Mr. SMITH. Well, I don't know about that. But that is the situation. If it is a corporation or 1 individual who owns 2 grocery stores in the District of Columbia, 1 in one end of town and 1 in the other, only 1 of them can have a license.

Mr. EASLEY. That is correct.

Mr. SMITH. If, as Mr. Wier suggests, if the man puts one in his wife's name, they can both get the license; and it doesn't make much sense, does it?

Mr. EASLEY. Not to me.

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Mr. WIER. Beyond that, I would be led to believe that this bill here, is not for just the Safeway Stores.

Mr. EASLEY. No, sir.

Mr. WIER. You have many other chains here, who equally would have as many stores as 77.

Mr. EASLEY. That is correct.

Mr. WIER. So we probably would get 500 or 600 additional licenses here.

Now, the thing that disturbs me about this—

STATEMENT OF PEYTON FORD, ATTORNEY FOR SAFEWAY STORES

Mr. FORD. I am Mr. Peyton Ford, attorney for Safeway Stores in Washington, D. C.

Grocery chains, numbers, including all chains, is 125.

Mr. WIER. Including the 77.

Mr. FORD. Yes, sir.

Mr. WIER. All right. The thing that disturbs me about this bill, bringing in the so-called beer licenses and grocery stores and drugstores—I don't know why drugstores should be denied the same license. I would like to do what I can to protect what we recognize here as an alcoholic industry here. A licensee pays pretty heavy taxes. I notice we always give them the works when we bring up a tax bill.

I want to protect an industry that is trying to survive under fair competitive conditions and that are subject to regulations that the ordinary grocery store, or drugstore wouldn't be subject to, or a hardware store. A hardware store proprietor might devise the idea "Nobody else in the neighborhood is selling beer, so I will put in a little beer stand here."

I think you are spreading it out pretty thin for a fellow trying to make a living with a liquor license.

Mr. FORD. We would be subject to the same regulation as any other licensee.

Mr. WIER. I haven't questioned that. I am just saying that you are certainly going to spread the alcoholic business here, particularly in the field of beer, you are going to spread it out so it is going to be pretty thin for everybody to make a living from. Now, you can afford to do it. As a matter of fact, you can make it a leader. I don't know whether the breweries would agree with that, but you are going to be a tough competitor for our present alcoholic industry here.

Mr. FORD. Well, Mr. Congressman, there are 900 independent grocery stores in the District of Columbia. Less than one-fourth of those have licenses to sell beer. So if it was an economic factor as far as their existence was concerned, it would appear that they would be clamoring for these licenses. And this doesn't mean, of course, that license should be granted to each store. Each case stands upon its own particular facts.

Furthermore, our studies show—and I will file a statement here—that approximately 1.5 of the gross sales of independents and chains that sell beer, relate to beer. Now, we sell beer in 19 States out of 23 where we operate and our record has been perfect in each State.

Mr. SIMPSON. I have one more question: Suppose this legislation becomes public law and some young boy 12 years old is sent to a

Safeway or a grocery store that has a beer license to get the beer and stops and opens it up on the way home, what can you do to keep a minor from handling alcohol?

Mr. FORD. We have a much better check on that than anyone else because they have to come through a checker to get out with a bottle of beer.

I wish Mr. Easley would tell you of the 2 experiences in over about 10 years of our operation in Virginia, that have occurred.

Mr. EASLEY. One of them was in—

Mr. SIMPSON. What protection would you have—what safeguard would you have against a young boy or girl being sent to a grocery store to get some groceries and a half dozen cans of beer?

Mr. FORD. The same protection you would have in any liquor store in any independent—

Mr. SIMPSON. A minor can't go in and buy it.

Mr. FORD. They have to come back through a checker. They can't buy it from us either.

The CHAIRMAN. Mr. Ford, do you have a prepared statement or an oral statement you would like to make following Mr. Easley?

Mr. FORD. In view of the Congressman's suggestion for an executive session, instead of any detailed testimony, I can file this.

The CHAIRMAN. Well, would you like to come back, say Wednesday? I thought I might call another meeting to complete this hearing Wednesday morning. Could you come back or would you just file a statement?

Mr. FORD. I could come back.

Mr. SMITH. Mr. Chairman, I might state that our committee is quite busy now and I fear I will have hearings every day this week. I would like to be here at an executive session because it is my bill and I am in favor of it.

The CHAIRMAN. It being your bill we want you here as much as possible.

Mr. FORD. What is the rule on the quorum?

The CHAIRMAN. A quorum of 13 on the vote.

Mr. FORD. As the Congressman says, we have 1 day. Will we have one Wednesday?

The CHAIRMAN. We won't have an opportunity to vote. We have a dozen other people to be heard on this bill.

Mr. FORD. I will be glad to come back Wednesday because I feel that I can answer a lot of your questions.

The CHAIRMAN. Is there anyone else out of town who wants to testify, other than Mr. Easley?

Mr. WIER. Let me ask one question and get that clear: Do I understand that there are beer licenses now granted to grocery stores?

Mr. EASLEY. Yes, sir.

Mr. FORD. Yes, sir.

The CHAIRMAN. Not chain stores. Just regular grocery stores?

Mr. DOWDY. One Safeway Store can have a beer license here in town.

Mr. WIER. That is what I was trying to get at.

No more than one license—why don't you lease your stores out to your managers?

Mr. FORD. You will have to take that up with the board of directors.

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We could use this device, as used, for instance, by Thrifty Stores, where you form an association. We could form 76 separate corporations and an association and sell beer, whisky, or anything else.

Mr. SMITH. As a matter of fact, they do, don't they?

Mr. FORD. They have some thirty-odd stores in one ad.

Mr. SMITH. Each of them has a license to sell beer.

The CHAIRMAN. We are delighted to have had you here. Have you any further statements?

Mr. EASLEY. Unless you have further questions.

(The following letters were received by the committee:)

COMMONWEALTH OF VIRGINIA,
VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD,
Richmond, Va., April 7, 1955.

Hon. ALAN W. PAYNE,
Chairman, Alcoholic Beverage Control Board,
District Building, Washington, D. C.

DEAR MR. PAYNE: We have been advised the alcoholic beverage control laws of the District of Columbia permits a license to be issued to only 1 location to 1 licensee for the off-premise sale of malt beverages and wines containing not more than 14 percent alcohol.

We also are advised a bill has been introduced in the Congress to permit a holder of such license to be licensed at more than one location, and we have been requested to advise you as to the experience of the Virginia Alcoholic Beverage Control Board in this respect.

We wish to advise that a licensee in the State of Virginia is not restricted as to the number of this type of license which may be issued to him at various locations, and we wish to advise that historically several licenses have been issued to the same licensee for several different locations and the board has never experienced any difficulty in issuing licenses in this respect. We, of course, require the licensee to have a designated manager in charge of each business establishment who will be on duty at all times at which such alcoholic beverages are on sale, and such designated managers must be approved by the board. We, of course, hold all licensees responsible for any violations which may occur on their licensed premises regardless of whether the licensee is present at the time of such violations.

We trust that you will not feel we are presumptuous in writing you this information, which is being done by request.

Sincerely yours,

JOHN W. HARDY.

COMMONWEALTH OF VIRGINIA,
VIRGINIA ALCOHOLIC BEVERAGE CONTROL BOARD,
Richmond, Va., May 12, 1955.

Hon. HOWARD W. SMITH,
Congress of the United States,
House of Representatives, Washington, D. C.

DEAR JUDGE SMITH: In further reference to your letter of April 6 addressed to Col. R. McC. Bullington, chairman of the board, and our letter of April 7 addressed to Hon. Alan W. Payne, Chairman of the Alcoholic Beverage Control Board of the District of Columbia relative to issuing more than one retail alcoholic beverage license for the sale of malt beverages and light wines to the same licensee, it is noted we failed to completely reply to your letter.

In addition to the information furnished in our letter of April 7, we wish to advise from our experience grocery (food) stores operated by independent grocers as well as chainstores have proven to be the type of business establishment entirely satisfactory for dispensing these beverages for off-premise consumption, and we consider such establishments to be among the best qualified businesses to be licensed for this purpose. We rarely receive a complaint of any violation of the law or rules and regulations of the board relative to the dispensing of such beverages by this type of licensee.

All retail licensees in the State of Virginia are required to purchase malt beverages from wholesale malt beverage dealers or brewers licensed to do business in the State of Virginia, and all retail wine licensees are required to purchase through

wholesale wine dealers or wineries licensed to do business in the State of Virginia or direct from the Virginia Alcoholic Beverage Control Board. Therefore, chain grocery stores cannot import into the State of Virginia special or their own brands of these beverages to be resold by them.

With kind personal regards,

Sincerely yours,

JOHN W. HARDY.

DANZANSKY & DICKEY,
Washington, D. C., May 1, 1956.

Hon. HOWARD W. SMITH,
House of Representatives,
Washington, D. C.

DEAR JUDGE SMITH: This firm represents Giant Food Shopping Center, Inc., a locally owned chain grocery store doing business in Washington, D. C., and its surrounding metropolitan area, with one store on the outskirts of Baltimore, Md. Giant Food Shopping Center has 14 stores located within the city limits of the District of Columbia, with a total of 32 units altogether presently in operation.

We wish to join in the statements and data submitted by Ford & Larson in support of your bill H. R. 4697 which would amend the District of Columbia Alcoholic Beverage Control Act to permit multiple licensing for the sale of beer and light wines.

We respectfully request that our client be accorded the privilege of a hearing on this bill so that it might receive favorable consideration by the present Congress.

Sincerely yours,

RAYMOND R. DICKEY.

The CHAIRMAN. We will call you back later, Mr. Ford.

Mrs. STEPHENS. Mr. Chairman, if we are closing this session on the alcoholic bill I would like to make this suggestion to the committee in favor of the bill. To make peace among all peoples, let's let drug-stores sell drugs and sundries, and grocery stores sell groceries, alcohol stores sell alcohol, and leave the bars to sell it by the drink. Thank you.

The CHAIRMAN. All right. The committee will go into executive session and we will resume our hearing at 10 o'clock Wednesday morning.

(Whereupon, at 11:40 a. m., the committee adjourned to reconvene at 10 a. m., Wednesday, July 17, 1957.)

**TO AMEND THE ALCOHOLIC BEVERAGE CONTROL
ACT OF THE DISTRICT OF COLUMBIA OF 1934, AS
AMENDED**

WEDNESDAY, JULY 17, 1957

**HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D. C.**

The committee met, pursuant to recess, at 10 a. m., in room 445-A, House Office Building, the Honorable John L. McMillan, chairman of the committee, presiding, with the following members present: Mr. Morrison, Mr. Dowdy, Mr. Matthews, Mrs. Granahan, Mr. Allen, Mr. Broyhill, Mr. Hyde, and Mr. Holt.

Also present: William N. McLeod, Jr., clerk of the committee.

The CHAIRMAN. The committee will come to order.

Is Mr. Peyton Ford in the audience? He did not complete his testimony the other day.

Mr. FORD. Mr. Chairman, I suggest that since the Commissioners are here, that they be heard first.

The CHAIRMAN. We will be glad to hear them.

**STATEMENT OF HON. DAVID KARRICK, COMMISSIONER OF THE
DISTRICT OF COLUMBIA**

Mr. KARRICK. Mr. Chairman, the Commissioners merely wish to say that they are in favor of the bill. The ABC Board, I believe, is opposed to the bill, but I will let them state their own grounds for it.

The Commissioners favor the bill, and I think it is not necessary to elaborate on it and take up this committee's time.

The CHAIRMAN. You have a written statement?

Commissioner KARRICK. No, sir, other than the Commissioners' report, which has been submitted.

The CHAIRMAN. If you care to furnish one later, we will be glad to receive it.

The CHAIRMAN. Mr. Shaw, would you care to make your statement now?

**STATEMENT OF MR. ARNOLD SHAW, REPRESENTING THE
MILTON S. KRONHEIM CO.**

Mr. SHAW. I have a statement that will take exactly 3 minutes.

Mr. Chairman and gentlemen of the committee, my name is Arnold Shaw. I am a practicing attorney in the District of Columbia, and appear here today on behalf of Milton S. Kronheim & Co., Inc., a wholesale liquor distributor engaged in business in the District of Columbia since repeal.

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On behalf of the Kronheim Co. I wish to express our appreciation for the opportunity to appear before this committee and give our views on proposed legislation.

H. R. 2510 would permit the sale of beer and light wines in chain-stores. We are opposed to this bill primarily because of the economic problem it would create for the small liquor merchant and individually owned grocery store with a beer license.

There is a great deal of concern these days for the welfare of the small-business man. Both the Senate and the House have established small-business committees whose principal activities are to safeguard the interests of the small merchant. There is also a Small Business Administration in the executive branch of the Government with similar objectives.

The bill now under consideration has but one purpose and that is to take something from the small-business man and give it to the big fellow. We know of no public clamor for the opportunity to buy beer in a chainstore. The individually owned liquor stores and groceries with class B licenses have adequately served the people of the District in their beer requirements. Why, then, enlarge the distribution of beer by permitting its sale in the chainstores?

The chains certainly do not need the increased volume of business. They all operate profitably with substantial dividends paid annually to their stockholders. On the other hand, the beer business now enjoyed by the small merchant can very well mean the difference between a profit and a loss.

The Senate Antitrust and Monopoly Subcommittee is about to issue a report which shows that the Nation's industrial giants have steadily increased their share of the American market since the end of World War II. According to the report, this growth in concentration of business among the large companies has been more rapid during the postwar years than in any comparable period in American history.

It would appear to be most inconsistent for the Congress to establish two Small Business Committees and a Small Business Administration, and then proceed to pass legislation which does exactly what the designated groups are trying to prevent.

In this age of bigness, there are very few categories of business remaining which can be operated by a man and his family. H. R. 2510 seriously threatens two of them in the District of Columbia—the small liquor store and the corner grocery. It is respectfully urged that this committee report on H. R. 2510 as not recommended to the Congress.

I won't comment on H. R. 7300 inasmuch as that is not up this morning.

The CHAIRMAN. Does anyone care to ask a question?

Mr. HYDE. Mr. Shaw, do you think as a matter of policy that Congress should attempt to help small business by saying that there are certain items of merchandise we are going to permit small business to sell and not permit big business to sell?

Do you think that is good policy?

If you are going to do it in the liquor business, why not do it with other businesses. The only reason we can get away with it in the liquor business is the general police power to control liquor. We couldn't get away with it with respect to nuts and bolts or cereal, because there wouldn't be any police power involved.

Now, do you think it is a matter of policy it is a good thing for the Congress or any legislative body to attempt to help one segment of

business as against the other by saying that one segment can't sell certain items and the other can?

Mr. SHAW. Mr. Hyde, I think it is already apparent that Congress is very much interested in the small-business man and is very desirous of preserving the status quo, if possible, against this general trend of concentration in big business.

Now, this is an opportunity, in a very small way, I will agree, to buck that trend and maintain the small-business man, or try and maintain him in business, vis-a-vis the giant organizations and corporations.

Now, you have these three—

Mr. HYDE. That doesn't answer the question, Mr. Shaw.

Mr. SHAW. Yes; I think in a regulated business which the beer and liquor business—

Mr. HYDE. Do you think we should do this with other items of merchandise?

Mr. SHAW. I think it is being done everywhere. Every day.

Mr. HYDE. How? Where?

Mr. SHAW. The Department of Defense is under an admonition to help small business wherever possible.

Mr. HYDE. The Department of Defense doesn't say that we are going to give contracts for nuts and bolts only to business under a certain size and not give them to business over a certain size, but that too is beside the point.

Here we are dealing with a question of what a business can sell, what they themselves can deal in. Not what we are going to contract with them for, to buy. We are dealing with the question of what they are going to be permitted to do business with.

Do you think it is a good policy for the Government to say that all business under a certain size would be allowed to sell pajamas, but those above a certain size won't be allowed to sell pajamas because pajamas is a good item to help the small-business man.

Mr. SHAW. I hate to beg the question, Mr. Hyde, because we are talking about beer and you are talking about pajamas, but I do think in a regulated business it is perfectly proper for the Government to decide who can sell a particular product.

Mr. HYDE. Surely; when we are dealing with the matter of police regulation, health, and morals, yes; but is that what is involved here?

You haven't said so in your statement. You haven't said there is any question of morality or police practice involved in this difference.

Mr. SHAW. Mr. Hyde, the reason I didn't say it—

Mr. HYDE. You have based your whole argument on economics.

Mr. SHAW. That is right. I know that other witnesses representing the dealers, the liquor dealers in the District of Columbia, are going to put forth those arguments. From the point of view of the Kronheim Corp., our only interest in this bill in its passage or defeat would be anything that affects the small liquor dealer would affect us as wholesalers and I didn't feel that it was our purpose in opposing this bill to stress any point of view except as it would affect us, and as we saw it from an economic standpoint.

Mr. HYDE. Then you think it is good practice for a legislative body to say one single business can sell an item, but the other segment can't because it would be economically beneficial to the segment who can sell it and they need help.

You think that is a good policy?

Mr. SHAW. Yes, I do.

Mr. HYDE. Do you know what the percentage of the average small liquor merchant in the beer and wine business amounts to?

Mr. SHAW. I can't give you those figures, Mr. Hyde, but I have talked to several of them and they have told me that they are operating on such small margin and such small volume that, taking the beer and light wine business away from them or a substantial portion of it, would seriously affect their activity to the extent that they might be driven into a loss position.

Mr. HYDE. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Allen.

Mr. ALLEN. Mr. Chairman, I have heard that about a quarter, only, of the grocery stores in the District handle beer. Those are the small grocery stores.

Do you know why it would be only that percentage of stores that would find the item a desirable item?

Mr. SHAW. I can only guess that the cost of the license would be a deterrent. The license is \$175, I believe, or \$165, something like that. To a small grocery store, that could be a substantial item, and it would require the sale of a tremendous amount of beer to make it up because the profit margin on beer is very low, I think around 8 percent gross profit.

Mr. ALLEN. Thank you.

The CHAIRMAN. Thank you very much.

Mr. SHAW. I appreciate your calling on me.

The CHAIRMAN. We will hear the ABC Board at this time if they have a representative here this morning.

Mr. Payne, I didn't see you.

STATEMENT OF ALAN W. PAYNE, CHAIRMAN, AND FRANK E. WEAKLY, OF THE ABC BOARD

Commissioner PAYNE. I am Alan W. Payne, Chairman of the Alcoholic Beverage Control Board, and would again desire to introduce

Mr. Frank E. Weakly, a member of the Board, for the last year and a half.

Gentlemen, the ABC Board opposes this legislation and most strongly and unanimously, on the score of several points.

We are thinking of the small-business man. As of July 1 we had 516 retail B licenses which sell or are licensed to sell malt beverages and light wines for consumption off the premises. I checked this morning with our Chief Inspector who estimated that of that figure, 95 percent and possibly more are what we call the "mom and pop stores." Husband and wife own them and run them, with or without the assistance of one clerk or a part-time clerk, or a porter, and these stores have only three things to offer to the public to maintain them against the large chainstore, and that is a beer license, they give credit, and many of them have a delivery service.

Most of them, certainly, or a large portion of them, at least, own their real estate. The chainstores do not generally own their real estate. They therefore pay taxes on their income, their personal property taxes, and all other taxes down to the gasoline tax on the fuel that is used in their trucks. The chainstores do not have the

same interest in the community that these property owners have, and these taxpayers have.

The American structure of business has always been based on small businesses, as I think all the members of the committee would know. We are for these small-business people.

We find by a check last Monday afternoon that there are in the District of Columbia 117 stores that are owned by chains. That figure does not include some private persons who own 2 or possibly 3 stores. They also would be allowed to have multiple licenses whereas today they have only one.

We believe that the chainstores' handling of beer would cut down the sale in these small stores because beer is the incentive to bring the buyer of groceries into those small stores, to the extent their business would be cut down so materially that they would go out of business.

We believe that the wholesalers of beer, of whom we have 10 at the present time, would suffer a material cut in their business and both of these cuts or the cuts and reductions in the other taxes paid by these people would reflect a material drop in the tax income to the District of Columbia.

We believe that proprietors of these stores, valuing these licenses, which are franchises that can be taken away from them for violation of the law and specifically for sale to minors, intoxicated persons and others to whom sales should not be made, are more apt to safeguard that valuable franchise than the paid clerk in a chainstore who would have no interest in that license, as the "mom and pop" in the small stores.

It therefore is believed there would be greater sales to minors and to drunks and the like and that the policing of these 117, if they all ask, and they could all ask, now, for licenses, would add a tremendous burden not only upon the ABC Board and its small force of inspectors, but upon the Metropolitan Police Department.

At the present time we would not have the staff to properly police a large additional number of licensed premises and for those reasons, gentlemen, the ABC Board recommends adversely on this legislation.

The CHAIRMAN. Are there any questions?

Mr. ALLEN. Mr. Payne, I am a little bit inclined to go along with the thought that Mr. Hyde suggested, that the ABC Board is specifically charged with the exercise of a certain part of the police power, but I doubt that these considerations of welfare for small business are really within our purview under the law.

Do you have any thoughts on the background of the law that would indicate that ABC should be in a position of judging between businesses of different sizes?

Mr. PAYNE. In respect to alcoholic beverages, I think in the statute passed in 1934 by Congress it was the intent, as it has been federally and in all of the States, whether licensed or monopoly States, to put restrictions on the sale and consumption of alcoholic beverages which are not put on any other commodity that I can think of, leaving out, of course, explosives and narcotic drugs, and poisons.

I think that it was the intent of Congress as expressed in the statute that there should be and there must be consideration of the social problems involved in manufacture, sale, and use of alcoholic beverages, more restrictions than on any other commodity of general use.

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Even so far as the Supreme Court is concerned, which I believe in two decisions in past years has used this phrase:

This is a thing fraught with danger to the public, and therefore needs more restrictions than any other commodity.

I do not believe that there would be any precedent set in restricting the sale of alcoholic beverages, because of the nature of such beverages, which is applicable to some other commodity or some other line of business.

It is not proper, in our thought, to compare the sale and use of alcoholic beverages with the sale and use of shoes, groceries, hardware, or whatever it may be. It is a commodity which is different from all others, and has social effects upon the community which these other things do not have. Therefore, it has always been our feeling that the Congress recognized that there should be additional restrictions on the commodity.

Mr. ALLEN. I can understand that there should be additional and different restrictions. I think I could understand a desire on the part of Congress and the Board that there should be a personal contact with a manager who had complete and final authority which you might have in a one-man ownership. That is a little different from saying that you could sell to a store that did \$20,000 a year, but you couldn't sell beer in a store that had \$100,000 or \$500,000, both with a single man owning the stores. We have made our decision apparently in times past on the basis of having responsible management to deal with in each store.

I know of no background that would indicate that because one store is a chain and the other is not, the economic factors indicate helping one phase of the economy as against the other.

I was wondering if you had ever run across anything of that sort in the history of the legislation?

Mr. PAYNE. No, sir. Our library lacks transcripts of the testimony before the committees of Congress in 1934, or of any of the discussions on the floor. We have great difficulty in finding these things, to find what the intent of Congress was.

But we go upon the words in the statute which put originally a limitation upon the multiple ownership.

Congress specifically stated that the owner of a tavern or the owner of a hotel or the owner of a restaurant may have more than one license, but that the owner of a package store, whether it is class A for all types of liquors, or class B, for only beer and light wines, may have only one such.

Congress also in the statute in 1934 imposed a limitation upon the number of wholesale licenses that a distillery or manufacturer could have and also placed a limitation on the number of wholesale licenses that a wholesaler may have.

I can only presume—and we have always presumed—that it was the intention of Congress that therefore as to these 2 types of retail licenses, 1 person or 1 entity such as a corporation should have 1 license and 1 only, and the thinking behind that, of course, I don't know, sir.

Mr. ALLEN. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Hyde—

Mr. HYDE. Of course, Mr. Payne, the background of this restriction was the monopoly of outlets acquired by the big breweries before

prohibition days. That is the background, and the purpose of it was to prevent that from growing up again.

Mr. PAYNE. I might guess that; yes, sir, but that is also covered in 2 other sections of the statute, 18 and 19.

Mr. HYDE. I don't think it was ever the intention of Congress to use this police power as an economic limitation or control.

I am interested, however, in some of your other observations which do, to my way of thinking, deal with the purpose of such legislation. You said that the wholesale business would be cut. How would this do that?

Mr. PAYNE. When the attorney who represented one of the chain-stores—and I can't name it at this time because I forget—first came to us years ago, his statement was, in reply to our question, that the beer wholesalers here would not be affected because his chain of stores would handle only the brands of beer handled by the wholesalers here.

We find, however, that it is the practice in other States—and the nearest is Virginia—where the chainstores have their own labels of beers which are sold at prices less than those of what we call the standard brands, the well-known brands. And they go into the wholesaling business. Therefore they would push this commodity with their own name on it, as is their practice generally with other things—canned and jarred fruits and vegetables and so forth, and soft pedal the sales of these others. They would bring their own brands in through their own organization and because of the cut price also, the wholesalers in town would sell less beverages because more of these others would be sold through the chain outlets.

Mr. HYDE. Thank you.

Now the other thing you mentioned was a possibility of greater sales to minors and drunks.

Mr. PAYNE. Yes, sir.

Mr. HYDE. What is the background for that observation?

Mr. PAYNE. That is only a theory. A fear. On the basis that the clerk in the chainstore does not have the fear of losing a license—he doesn't have a license. He has a job. He could be fired maybe for selling to a minor, but he could go somewhere else and get another job.

But when "mom and pop" lose their license, they have lost a franchise which means money to them, which not only brings a profit on the sale of the beer but attracts us to come in and buy our groceries, canned goods and other foods, because we can get our beer there.

Mr. HYDE. Have you made any observation as to how beer and wine is sold in chainstores in other States? That is, is it sold directly by a clerk, or do the customers go around and pick it off like they do bread and crackers and canned goods?

Mr. PAYNE. No, sir, we have made no direct inquiry, but we would presume that the person as he does now, would pick out his beer as he does his fruits, vegetables, and canned goods, and go to the checker.

Mr. HYDE. Do you think that would cause any greater difficulty in enforcement with respect to minors and drunks?

Mr. PAYNE. I am afraid because of the lack of responsibility on the part of the checker, the checker would not make the same query of the youthful-looking minor, or the possibly staggering customer of adult age, as to the age of the minor and whether he was old enough to have beer.

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Mr. HYDE. Does Safeway have one store in the District now that sells beer?

Mr. PAYNE. I know of no chainstore that has a beer license at this time.

Mr. HYDE. No chainstore in the District has even 1—they can have 1 under the law.

Mr. PAYNE. They could, yes.

Mr. HYDE. And you know of none that has even one in the District?

Mr. PAYNE. No, sir.

Mr. DOWDY. Will the gentleman yield on that?

Mr. HYDE. I yield.

Mr. DOWDY. It seems to me I saw an advertisement in the newspaper by a chainstore that designated their 1 store and I believe they had some beer on sale at 5 cents a bottle. That was some chainstore I am quite sure, because my recollection is that they had a map showing which one of their stores had the beer.

Mr. PAYNE. I believe that is a store in which a corporation or 2 partners have 2 stores and 1 of the stores has a retailer's class A license which permits them to sell whiskies and all other types of beverages.

Mr. DOWDY. It is just an impression. It has been 2 or 3 months ago that I saw that. I just noticed it at the time. I think it was a grocery store.

Mr. PAYNE. Yes, sir.

Mrs. GRANAHAN. Mr. Chairman, I come from Pennsylvania. No chainstores in Pennsylvania are permitted to sell beer or wine but I do know the little delicatessen stores and the corner grocery stores are particularly careful to whom they sell beer. They may go around and pick up their groceries from the shelves and place them in the cart, but in order to buy beer, they must go to the proprietor in the "mom and pop" stores, as you call them, and buy it over the counter.

I am very much in accord with you, Mr. Payne. I think small business would be almost obliterated if this bill were passed.

Mr. PAYNE. We feel so, and I might say that we have "mom and pop" stores who, because of economic reasons, have the serve yourself proposition, and a checking desk at the door, and we insist that the beers and wines be right behind the checker or cashier if he wants a license so that he can see the customer and see the staggering condition, if any, and see his age, if a possible minor.

Mr. HOLT. This is an interesting question and it makes me think of my own State, because we do in California allow stores to sell wine and beer. If they sell hard liquor, I believe they have a separate department isolated sort of like a liquor store. I have been in and out of these hearings because of an Education and Labor Committee meeting, but I gather you are against chainstores selling beer?

Mr. PAYNE. Yes, sir.

Mr. HOLT. And the main reason—I gather once again, I don't mean to put words in your mouth—is that you don't think they can handle it properly and keep minors from getting it?

Mr. PAYNE. My feeling, and the Board's feeling has been that the wage-earning clerk at the checking desk does not have the same sense of responsibility as the individual owner in his little store as to selling to minors and drunks, because that clerk does not have a license to lose, whereas mom and pop do.

Mr. HYDE. He does have a job to lose, though, doesn't he?

Mr. PAYNE. Oh, yes, but like the waiters and waitresses, if they are fired here, they go over there. They can get a job very easily. Or in a shoe store, or pajama store.

Mr. HOLT. I am curious as to why we feel we can regulate it in California and you can't here. What is the difference?

Mr. PAYNE. That is because you have a State legislature in your State that regulates for you. Our legislature is here.

Mr. HOLT. I don't think that is a proper answer. I think we have a liquor control board.

Mr. PAYNE. Yes.

Mr. HOLT. What does the State legislature have to do with that?

Mr. PAYNE. Because your laws emanate from your legislature as our laws emanate from the Congress here.

Mr. HOLT. Are you saying we need more laws, in order—I don't get your thinking at all. What do we have to do with you folks regulating the sale of beer.

Mr. PAYNE. I don't think I get your point exactly.

Mr. HOLT. Well, maybe I am not clear.

My point is, how can they regulate it properly in California—we don't have any complaints out there, and I haven't made up my mind on this legislation. I am seeking information.

What I want to determine is what is the difference between our setup here to regulate the sale of alcoholic beverages, and the State of California with which I am familiar. I don't see how the legislature or Congress comes into it.

If we can regulate the sale of beer and wine in chainstores in California, why can't you here in the District?

Mr. PAYNE. Well, of course Congress here could so regulate in the District.

Mr. HOLT. I take it you feel your board cannot do it in a chainstore or doesn't want to?

Mr. PAYNE. Our board can't, no. The absolute edict is against it in the statute from Congress.

Mr. HOLT. That I understand, but I gather one of the reasons you are opposed to this legislation, or allowing it to be sold in chainstores, is because you feel it can't be properly regulated, is that correct?

Mr. PAYNE. Among other things, and because of the economic impact on these 516 little stores who have only a beer license.

Mr. HOLT. That is self-explanatory, but what about this regulation part? I can't understand why you can't regulate it? If this law is passed, you feel like it would be difficult to regulate?

Mr. PAYNE. Not regulate, but police. We have only 11 inspectors. If we were to add the possible 117 chainstores that are here, each of which might possibly have a license, we couldn't possibly visit them as often as we should in order to keep an eye on them. The policing also would fall as an additional burden upon the Metropolitan Police Department which does the main portion of the policing, as to sales to minors, sales to drunks, and so forth, and sales after hours.

Now with all due respect to the excellent management, of course, of the chainstores, we don't feel that the management would be lax in these things, but the management depends upon the little clerks right at the firing line who don't have the same sense of responsibility

possibly of safeguarding that license that mom and pop, the proprietors, the owners appear to have.

Mr. HOLT. I disagree with that statement. I am familiar with chainstore operation and I don't think that is an accurate statement or a fair statement.

Mr. PAYNE. That is our belief, sir.

Mr. HOLT. I think the man may lose his job, and they have managers and supervisors on the job, and I don't think that is a fair statement at all. I don't see how you can come up with that conclusion.

That is all the questions I have.

The CHAIRMAN. Mr. Dowdy.

Mr. DOWDY. If the licenseholder at the present time sells to a minor is it at his peril? Can he take the minor's statement and his appearance to govern whether he is a legal purchaser—is it at his peril if the minor appears to be over the age, but actually is not, would he still be guilty?

Mr. PAYNE. It is at his peril, and Congress said in section 20 of the statute "Ignorance of the age of any such minor shall not be a defense to any action instituted under this section."

Mr. DOWDY. I felt it was. You can't go by appearance. You actually have to prove age.

Mr. PAYNE. Yes, sir.

Mr. DOWDY. I can understand very well your statement that somebody passing through a checking line in a store, a chainstore with beer, that the checker would not be as careful as the person who stands to lose a license.

Mr. PAYNE. It is just a fear. It is not a conclusion of ours, it is just a fear.

The CHAIRMAN. We certainly appreciate your statement, Mr. Payne.

Mr. Weakly, would you care to make a statement? We would be glad to hear from you if you care to comment on the pending bill.

Mr. WEAKLY. If I may, I would like to raise one question: If multiple licenses are to be permitted under this statute, why not include all licenses—in fairness to all segments of the industry, then. I am not clear why the chainstores should be permitted a multiple license, and at the same time neglect the A licenses. Permit all to have multiple licenses and then there will be no discrimination of any kind.

I don't say it would simplify the job of the board; it would complicate it considerably. But there is a field of justice or reasonableness in it that I can't quite get around myself in my own thinking. I am very much interested in the small-business man and have said so on so many occasions.

I think any legislation that is finally determined must keep that interest very greatly in mind.

I notice in reading the opinions in most of the States where there changes in statutes arise regularly that always there is one factor that is highly important, and that is the industry or the businessman or the small-business man's interest in the picture. You have the liquor industry, you have the tax problems—that is to say the Government—but you cannot overlook the individual taxpayer's interest.

The CHAIRMAN. Mr. Hyde—

Mr. HYDE. Mr. Weakly, you say if your are going to do it with beer, why not do it with hard liquor?

Is there a good reason—that is what we are trying to find out—from the standpoint of public policy as far as policing that thing is concerned, in a thing which is as fraught with dangers as the liquor industry is, is there a good reason from the standpoint of policy as to why we should not permit the multiple licensing in beer and in hard liquor?

That is what we would like to find out, if there is a good reason from the standpoint of policing, from the standpoint of the welfare of the public, if there is a reason, we would like to have the reason, or reasons.

Mr. WEAKLY. I don't know that I can give you realistic reasons, but somehow most of the States and Congress in legislating for Washington, have separated beer and light wines entirely from the consideration of hard liquors. I don't know the exact reason except that some people believe that beer is not as intoxicating as whisky.

Mr. HYDE. That is the principal reason, is it not?

Mr. WEAKLY. I presume that is the principal reason. Another thing the taxation on the beer and light wines is not anywhere near the stature of the taxes on hard liquor, so that is a factor. I believe that the original thought which you stated—and I think it is in the minds of most of us—that in coming back to the legal sale of alcoholic beverages, we did not want the return of the old conditions under any condition.

Mr. HYDE. Do you think that this might possibly lead to a return of the pre-Volstead days?

Mr. WEAKLY. Not the bill before you now, sir; but I believe an increase in the multiple licensing, particularly on the hard liquors, might conceivably do it, depending on the way it is set up, and the control granted to the Board to regulate. After all, we are limited by the law and the regulations as defined here in our instructions from Congress and the Commissioners.

Personally I don't have those fears that some might have, because I have been in business and I know that you can do things in business that—some men can do them and some men can not. It is a question of management, authority, and finance.

You can regulate it to a very fine point if it is so set up and you have the funds with which to do it.

Mr. HYDE. I gather from what you say then that you think from a standpoint of policing this industry which everyone obviously agrees needs more policing than other retail business, from the standpoint of policing, then, you think it is best not to have any multiple sales?

Mr. WEAKLY. It simplifies it. It performs some injustices here and there, but in substance I think we can keep the operation cleaner and on a higher plane because of practices that sometimes just gradually come into a picture. I don't say they are wrong, but technically, to me if we permit the increase in multiple licenses as in this proposal, then I see nothing wrong with increasing the wholesalers' multiple licenses, or the A store multiple licenses under proper restrictions.

Of course there we steadfastly watch out for tie-ins, which is what you mentioned a moment ago. We eliminate and prevent tie-ins, which eventually become control by outside interests.

Mr. HOLT. I share your concern about small business because you have a small geographical area that is built up and you have these

"mom and pop" stores that in many communities couldn't survive. They can here because the residents have the same parking problem that the "mom and pop" stores have. I believe there are 516 of these "mom and pop" stores.

How many of those belong to a co-op setup and purchase their groceries through a co-op setup?

Mr. WEAKLY. I wouldn't know the number. There is the DGS stores; but they own their own stores. It is a purchasing system.

Mr. HOLT. Do they own stock in this purchasing setup?

Mr. WEAKLY. I have never seen any of the agreements.

Mr. HOLT. I want to see if my definition of a "mom and pop" store is the same as yours. I was furious about what they purchased co-opwise.

How many of the 516 would purchase that way?

Mr. WEAKLY. Only part of them. Part of them would buy direct.

Mr. HOLT. You don't have the breakdown?

Mr. WEAKLY. No, sir.

Mr. HOLT. Do you have that available?

Mr. WEAKLY. I don't think we have that available, Mr. Holt.

Mr. HOLT. But they are privately owned?

Mr. WEAKLY. Yes; and they have the individual licenses themselves and must pay for them themselves. How they do their purchasing has never been of great concern to this board because most of their purchases were foodstuffs.

Mr. HOLT. I just wanted to see if we are talking about a regular "mom and pop" _____

Mr. WEAKLY. They are about the only ones at that level that can survive today.

Mr. HOLT. That I am well aware of. In many places don't they have a special checkout stand for beer and wine to go through?

Mr. WEAKLY. Yes; and I am sure Safeway would also have that. However, if any of you gentlemen have shopped in chainstores and find yourselves the 12th truck squeezing down through the checkout, that clerk doesn't have much time to look you over.

Mr. HOLT. I don't think clerks here are any different than anywhere else, do you?

Mr. WEAKLY. I don't think so.

Mr. HOLT. Why do we keep talking about the clerks here being different than anywhere else?

Mr. WEAKLY. Only the pressure of that type of checking out.

Mr. HOLT. It is no different here than anywhere else?

Mr. WEAKLY. No; I don't think so.

Mr. HOLT. I don't quite see that. I don't think we should infer here that the clerks here have less ability than anywhere else.

Mr. WEAKLY. Here is a point you may be overlooking. There is pressure at that point and where there is pressure and people waiting to be cleared, you can't take the time to look the fellow over.

Mr. HOLT. It is no different here than anywhere else. They can do it elsewhere.

Mr. WEAKLY. That is true. That is true. We are only concerned with the District of Columbia.

Mr. HOLT. Well, so am I. I buy your protecting the small-business man portion of your argument, but I think you are away off on this clerk thing, or saying the chainstores can't regulate it.

Mr. WEAKLY. I agree with Mr. Payne. We are not saying it would happen. It could happen.

Mr. HOLT. I think you have an obligation to look at a place and study where it has been operated properly and quit this clerk nonsense. That is just my opinion, and you are welcome to yours.

Now about this enforcement; I understand you only have 11 enforcement officers?

Mr. WEAKLY. We don't have that many, realistically speaking.

Mr. HOLT. Is that enough to enforce what you have now?

Mr. WEAKLY. No, sir; because it actually averages out about 4½ men each day of the year that they are available because of vacation and sick leave and the normal run-of-the-mill situation, and any increase in the number of places that have to be in a sense supervised would throw an additional burden on the staff. You can't get around that.

Mr. HOLT. Do you have enough personnel to do the job properly now with what you have?

Mr. WEAKLY. That word "properly" is relative. I might disagree. I might say "No, I don't think we have." Mr. Payne might say he thinks so. The word "properly" is the point. I don't think they are supervised closely enough.

Mr. HOLT. That is then not a valid argument for more, because you aren't doing it right now. How about you, Mr. Payne? Do you feel you have enough to do the job now?

Mr. PAYNE. We can give the community just as much enforcement control and adherence to law as the Congress will give us in the way of staff by means of appropriation.

Mr. HOLT. Mr. Payne, I didn't ask you to answer that way. I asked you a very simple question. I asked you if you have enough people to properly do your job now?

Mr. PAYNE. No, sir.

Mr. HOLT. That is all I wanted to know, Mr. Payne. Thank you, and I have no further questions, Mr. Chairman.

The CHAIRMAN. We certainly appreciate your coming before the committee and giving us your opinion on the pending bill, Mr. Payne and Mr. Weakly. We have been delighted to have you with us.

Mr. PAYNE. Thank you, Mr. Chairman.

Mr. WEAKLY. Thank you.

The CHAIRMAN. Mr. Ford, would you care to complete your statement at this time?

STATEMENT OF PEYTON FORD ON BEHALF OF SAFEWAY STORES

Mr. FORD. Before I read the statement, I would like to meet some of the factual statements that Mr. Payne has made.

I am speaking for Safeway.

We do not have any name brands of beer, nor do we wholesale beer. That is true also in Virginia. I don't know where Mr. Payne got his information, but it is erroneous.

Second, he speaks of these 516 or 517 licenses. I understood him to say class E, but that is drugstores, so he must have said class B, but as far as grocery stores are concerned in the District, there are

only 173 class B licenses, which is beer, and there are 900 independent stores.

This bill is directed primarily toward beer, because a national survey indicates that approximately 90 percent of all families containing beer drinkers are in the habit of buying beer or ale for home consumption, and more than one-half of all families in the United States obtain a portion of their beer from grocery stores.

The majority of grocery shoppers are, of course, women, and it is clear, I think, that it is preferable for a woman in shopping to be permitted to buy beer in a grocery store, whether she shops in a chain-store or an independent, instead of in effect forcing her into a liquor store or a tavern.

We also believe that the fundamental concern of any alcoholic beverage control board is and properly should be to make certain that beer, wine, and ale are sold in appropriate locations and by people of integrity. By permitting licenses and authorizing all qualified food stores to sell beer it would be directly in the spirit of that philosophy.

In this regard I want to invite the committee's attention to the experience of Safeway in the operation of their stores in Virginia, to which Mr. Easley spoke briefly. We have been operating sixty-five-odd stores there for 9 years under the multiple licensing system and in that period there have been only 2 complaints and those were of extremely minor nature.

One was when an overgrown lad borrowed somebody else's draft card and used it to get by the checker, and another was when an elderly lady was sitting in her car and sent her son in to attempt to buy and bring out some beer for her.

Furthermore, Safeway operates in 23 States. Of these 23 States we are permitted to sell beer in our stores in 19 States. Out of the 1,300 stores in which we sell beer, there has never been a revocation of any license nor has any regulatory body sought to revoke a license. Now that is experience, and I think the record cannot be refuted by any vague supposition that Mr. Payne wants to make.

We know of the apprehension concerning small business, and we do not feel that any facts justify that apprehension. Coming back again to my previous argument—that is, of 900 licensed, independent grocery stores in the District, only 173 have beer licenses. If there were any economic advantage or it were needed, certainly it is logical that more stores would apply for licenses.

In regard to the issue of chains versus independents, again it should be noted that food chains selling beer have found that our gross on beer, as against total gross, is 1.5, and the independents are a little higher, with not over 2 percent.

Any apprehension that the chainstore would gain economic advantage over the independent in the purchase and sale of beer may be similarly dispelled. In view of the present statutory plan governing the sale of alcoholic beverages, in the District no chainstore could obtain a wholesale license and at the same time hold a retailer's license. Consequently a chain selling beer at retail could not also sell it at wholesale.

In view of the requirements and prohibitions in the Robinson-Patman Act, under section 2, where we are subjected to those provisions in the District, any sale of beer that resulted in unfair competition could be promptly regulated.

There is no fair trade law in the District of Columbia but section 2 of the Robinson-Patman Act would again operate unless we were meeting fair competition.

Again, using Safeway's example, it has been a firm, definite, established policy of Safeway never to cut the price of beer except in limited instances when it is necessary to meet competition and that policy will continue in the District.

As to whether we would import into the District unknown brands or brands of beer not presently available, there is power in the ABC Board to control that importation. If we attempted it, and it wasn't in the public interest, the Board presently has authority to control it.

We do not have in Safeway any brand beers, nor do we wholesale in any way.

I did not, when I prepared my case on this bill, anticipate that I was going to appear before the Federal Trade Commission or the Antitrust Division, but in conclusion it should be noted that the restrictions against multiple licenses does not apply to holders of class C or D licenses here and I can see no reason, economic or otherwise, why simply because we are a chainstore we should be disfranchised on the sale of beer. I think the bill should be considered on its merits.

That is all I ask.

The CHAIRMAN. Are there any questions of Mr. Ford?

Mr. HYDE. Mr. Ford, you said you don't sell any exclusive name brands in Virginia and that Mr. Payne's statement was erroneous. Do you know whether that applies to any other chainstores in Virginia?

Mr. FORD. No, sir.

Mr. HYDE. You have no knowledge one way or the other as to that?

Mr. FORD. No, sir.

Mr. HYDE. Does Safeway Stores sell exclusive name brands in any State?

Mr. FORD. No, sir.

Mr. HYDE. Nowhere in the United States do they sell any exclusive name brands?

Mr. FORD. No.

Mr. HYDE. Does the Safeway ever offer beer or wine as a loss leader in any State?

Mr. FORD. It is our policy not to do it.

Mr. HYDE. The policy is not to do it?

Mr. FORD. There are instances when we have to meet competition and can meet it fairly under the Robinson-Patman Act, that we would have to cut our prices down.

Mr. HYDE. Section 2 of the Patman Act would apply to a wholesaler selling to you and it wouldn't apply to you selling in retail?

Mr. FORD. No; but other sections would. And other sections of the Clayton Act.

Mr. HYDE. Would apply to you as a retailer. You couldn't sell potatoes, in other words, less than the man down the street would sell them?

Mr. FORD. Yes; we could.

Mr. HYDE. You could sell beer, too, less, couldn't you?

Mr. FORD. But under the Robinson-Patman Act it can't be for an unfair purpose. It has to be to meet fair competition. We can't cut down on potatoes to run that man out of business.

Mr. HYDE. Well, I suppose so. I am not just quite sure what that means.

You referred to multiple restrictions—no multiple restrictions on class C, and D. For the sake of the record would you state what class C and D licenses are? It is restaurants is it not?

Mr. FORD. Class C is a liquor and beer license for restaurants and hotels. Class D is a beer license for restaurants, taverns, and so forth.

Mr. HYDE. Thank you, Mr. Chairman.

The CHAIRMAN. Any further questions?

Mr. HOLT. I have a question, Mr. Chairman.

The CHAIRMAN. Mr. Holt.

Mr. HOLT. Mr. Ford, I did not quite get the number of stores—out of 516 grocery stores you said so many had licenses.

Mr. FORD. Out of 900.

Mr. HOLT. 900 licenses.

Mr. FORD. There are 900 independent grocery stores licensed. Of the 900 only 173 have a license to sell beer.

Mr. DOWDY. Is that a B license?

Mr. FORD. That is beer.

Mr. HOLT. Where did I get this 516?

Mr. FORD. That was Mr. Payne's statement, and he spoke of another license. I think he meant D.

Mr. HOLT. Which is beer and wine both?

Mr. FORD. Yes. That is for hotels, restaurants, taverns. They can have multiple licensing.

Mr. HOLT. Of these 900 stores, only how many—

Mr. FORD. 173. I got those figures from the ABC Board.

Mr. PAYNE. Oh, no, you didn't.

Mr. FORD. That is class B.

Mr. HOLT. You have how many stores in the District, here?

Mr. FORD. 76.

Mr. HOLT. Some of your stores are in the "mom and pop" category, aren't they?

Mr. FORD. Nearly all.

Mr. HOLT. How many of those?

Mr. FORD. That is not quite a proper analogy, but I would say at least a half of them are small stores.

Mr. HOLT. I have been in some of them that I would call "mom and pop."

How many folks do you employ here in the District of Columbia? Do you have any rough idea?

Mr. FORD. I can't tell you offhand.

Mr. HOLT. How many of your stores are in new areas? I know that space is limited, here.

Mr. FORD. Well, we change as zoning changes and as the community develops.

Mr. HOLT. I asked that because I am interested in protecting the small-business man as well, particularly in the smaller communities where they are already established.

Mr. FORD. I firmly believe that this would have no effect on the small-business man. It has not in Virginia, and I can't find any evidence to the contrary in any other State.

Mr. HOLT. Those are all the questions I have, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you very much, Mr. Ford. We are glad to have your statement.

Mr. FORD. There is one other thing I might add, that under the present law, the Commissioners have complete authority to limit the number of licenses. If this bill was passed and it wasn't operating properly, the Commission, under existing law, would have authority to step in and limit the number of licenses, if they so desired.

The CHAIRMAN. Thank you very much.

Mr. PAYNE. Mr. Chairman, for clarity of the record, I would like to correct the witness.

The CHAIRMAN. Mr. Payne; yes, sir, you may make a correction.

Mr. PAYNE. On July 1, we had 516 class B licenses. The gentleman has an incorrect figure. He was referring to 173 class D, as in "Daniel," licenses. They are the taverns where the beer is consumed on the premises.

Mr. FORD. That will just have to be checked. If I am wrong, I am wrong.

(The prepared paper of Mr. Ford follows:)

STATEMENT ON BEHALF OF SAFEWAY STORES, INC., RE H. R. 2510, 85TH CONGRESS

This statement is made in support of H. R. 2510 which would amend the Alcoholic Beverage Control Act of the District of Columbia of 1934, as amended.

H. R. 2510 provides for the amendment of section 12 (b) of the 1934 statute to make it possible for this Board to grant to a retailer with more than 1 retail store more than 1 class B license, and thereby enable such retailer to sell beer and light wines in more than 1 of his stores.

H. R. 2510, if enacted, would bring the District of Columbia in line with the great majority of the States of the Union, where food stores are authorized to sell beer. Most jurisdictions in the United States do not prohibit, as does the District of Columbia, multiple licensing for off-premise sales of beer and light wine by retail stores.

I

One of the most important reasons for the enactment of H. R. 2510 is to afford household shoppers an opportunity to purchase beer, ale, and light wines in the grocery store or supermarket of their choosing at the same time that they buy the family food and other beverages. At the present time in the District of Columbia shoppers who patronize chain food stores (whether the chain be large or small) cannot buy beer, ale, or light wines at the same time that they buy their food and other beverages.¹

While the subject bill would amend the law so as to cover beer, ale and light-wines, the emphasis in this memorandum is placed upon beer, since beer consumption and sales far exceed those of ale and light wines. A national survey² indicates that approximately 90 percent of all families containing beer drinkers are in the habit of buying beer or ale for home consumption; and that more than one-half of all families in the United States buying package beer or ale obtain some portion of their supply from a grocery-type outlet.

Since under the present law in the District of Columbia, no merchant can have more than one class B retail license, only a relatively few of the chain grocery stores sell beer.³ As a consequence, those food shoppers in the District of Columbia who patronize chain grocery stores cannot purchase beer at the same time and in the same place that they purchase their food and other beverages. These shoppers must go to some other beer outlet—such as a single licensee or liquor store—in order to purchase beer.

The majority of grocery shoppers are, of course, women and while it is clear that the average woman shopper would have no reluctance to purchase beer in her grocery store or supermarket, she does have a natural reluctance to go into a liquor store to buy beer. H. R. 2510 would remedy this situation in the District of Columbia.

¹ Under existing law, only 1 store in a chain is eligible for a class B license.

² Survey by J. Walter Thompson Co. for United States Brewers Foundation, September 1954.

³ "Chain" as used is intended to describe any enterprise with more than 1 store, and not just national chainstores.

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II

As long ago as 1816 in this country, it was recognized that the use of beer was a blow against intemperance and the tragic consequences of chronic alcoholism. At that time Thomas Jefferson noted in a letter to a friend that:⁴

"I wish to see this beverage [beer] become common instead of the whisky which kills one-third of our citizens and ruins their families."

The Catholic Standard, in the issue of March 18, 1955, noted:

"Even in the Old Testament we can see some specific justification of moderate drinking, as in the Book of Ecclesiasticus: 'Wine was created from the beginning to make man joyful, and not to make him drunk. Wine drunken with moderation is the joy of the soul and heart.'

Making beer, ale, and light wine easily accessible to the household shopper in the family grocery store is not only a matter of convenience but also would, we believe tend to discourage excessive drinking of whiskey.

III

We believe that fundamental concern of any alcoholic beverage control board is and properly should be to make certain that beer, wine, and ale are sold under the proper auspices, in appropriate locations, and by persons of integrity. By permitting multiple licensing and thus authorizing food store chains to sell beer and wine, H. R. 2510 would be directly in the spirit of this philosophy.

The various food chains who would be qualified, under H. R. 2510 to obtain class B licenses are business organizations of repute and responsibility. For example, the Richmond Times-Dispatch in an editorial written at the time certain temperance groups were seeking to prevent the granting of beer licenses to food stores in Virginia stated:

"Do these sincere, but misguided people, realize that the food stores which sell beer for off-premise consumption are said by the ABC board to be the least troublesome of the outlets for beer? There is considerable trouble in the case of some confectioneries, drugstores, and restaurants with on-premise licenses, but the sale of beer and/or wine for off-premise consumption by grocery stores has never been a serious problem."

This is particularly the case where the food stores are part of a group or chain of stores and are held by their management to high standards of responsibility and operation.

In this regard, attention is invited to the experience of one such chain, Safeway Stores, Inc., in its operation in the neighboring jurisdiction of Virginia. Safeway has been selling beer in approximately 65 stores in the State of Virginia for the past 9 years. During that period of time, and with regard to all these stores, there have been only two complaints with respect to the sale of beer, and these complaints have been minor in nature.

Continuing with the example of the Safeway experiences: Safeway operates stores in 23 States. In 19 of these States, it sells beer in approximately 1,300 stores. During the long period of its operation, the number of its violations have been infinitesimal and no State or governing authority has ever revoked or sought to revoke a license held by any Safeway store. While similar data on other food chains is not readily available, we believe that their experience is the same.

The great majority of chain stores operate on the self-service cash-and-carry home basis without providing delivery service. This eliminates the possibility of unauthorized persons securing home delivery of alcoholic beverages by use of the telephone. Accordingly, in any control board's function of making certain that alcoholic beverages are sold properly and under appropriate auspices, it would appear that the food chain outlet would be clearly in the public interest.

IV

We suppose that there has been some apprehension on the part of the people interested in this question that the enactment of H. R. 2510 may have an adverse effect upon small independent grocery stores. This apprehension is apparently predicated upon a belief that the independent grocery store attracts business through the sale of beer, and that the sale of beer by chains would jeopardize their continued existence.

We do not feel that the facts justify this apprehension.

In an attempt to ascertain whether this apprehension is valid, we have made a study of available statistics. We have been advised that there are approximately

⁴ From the Works of Thomas Jefferson.

900 independent grocery stores in the District of Columbia. Of these 900 grocery stores, less than one-fourth hold class B licenses. These figures would seem to indicate that the importance of beer sales in the independent grocery store is substantially overemphasized. If, in fact, the sale of beer by independent grocery stores was so important to their existence and prosperity, it would certainly seem that at least 1 out of 4 of these grocery stores would hold class B licenses.

Furthermore, the concern that food chains might jeopardize the continued existence of independent grocery stores if they were permitted to sell beer, is an economic issue. It is certainly no different than the more basic question of food chains generally as against independent grocery stores.

In regard to the issue of the chain versus independent grocery store problem, it should also be noted that food chains selling beer have found that beer sales compared to volume of total sales are approximately 1½ percent and that their experience is that beer sales of independent grocery stores compared to total sales in such stores rarely exceed 2 percent. This is corroborated by a survey made by Food Topics, leading publication in the retail food industry. In consequence, it does not appear that independent grocery stores must sell beer to the exclusion of their competitors in order to make their way.

V

Any apprehension that chainstores would gain any economic advantage over independent stores in the purchase and sale of beer in the event that H. R. 2510 is enacted, may similarly be dispelled.

In view of the present statutory plan governing the sale of alcoholic beverages in the District of Columbia, no chainstore could obtain a wholesaler's license at the same time that it held a retailer's license. Consequently, a chain selling beer at retail could not also act as a wholesaler and, therefore, could not gain a cost advantage over independent stores.

In view also of the requirements and prohibitions of the Robinson-Patman Act, a chain operating in the District of Columbia could not exact lower prices from a distributor or wholesaler of beer because of its larger buying power. Section 2 (a) of the Robinson-Patman Act, as is well known, prohibits discrimination in price between different purchasers and the exceptions to this prohibition are limited only to price differentials which make due allowances for savings in sale, delivery, or warehousing. Hence, the individual stores of a chain organization would be in no better position than independently owned stores insofar as the purchase of beer from distributors or wholesalers is concerned.

Even if there were no statutory limitation upon chains against the massing of purchasing power, the operation of chains in the many jurisdictions in which multiple licensing is permitted, indicates that this is not their policy nor method of doing business. Thus, as an example, in the neighboring State of Virginia, even though Safeway had at one time a Key license, it always made certain that the distributor involved was never bypassed and was accorded his applicable margin differential.

In the absence of a fair-trade law or minimum-price law in the District of Columbia, there is no legal prohibition against selling beer below a standard, suggested, or normal price. There are, therefore, occasional instances when present beer retailers have engaged in price cutting. There is, however, no indication on the part of the responsible food chains, in the event that H. R. 2510 is enacted, to cut prices on beer. Again, using the Safeway operation as an example, it has been a firm and definitely established policy of that organization never to cut the price of beer except in the limited instance when it was necessary to do so in order to meet the competition of a competitor who had already cut prices. Safeway intends to continue this policy in the District of Columbia in the event that H. R. 2510 is enacted, and it is believed that the other responsible food chains will also follow this procedure.

There is furthermore no possibility that the food chains will import into the District of Columbia unknown brand or brands of beer not presently available in the District of Columbia without Board approval in view of the fact that an import permit is necessary to do this. Such import permits may be obtained only with the approval of the Alcoholic Beverage Control Board, and, accordingly, any importation by a class B license-holder would necessarily be under the control of this Board.

It is also unlikely that any of the chains will seek to sell their own brands of beer in the event that H. R. 2510 is enacted. Experience of the chains has shown that it is better business to sell existing known brands of beer than to introduce

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special or private brands. Safeway Stores, the chain operating most stores in the District of Columbia, has clearly indicated that it does not intend to introduce, in the event that H. R. 2510 is enacted, any private brand of beer. In this regard, it should be noted that Safeway does not operate a brewery, and has not had its own brand of beer since 1942.

VI

In view of the frequent references throughout this memorandum to the Safeway Stores organization, we believe it is important to point out that H. R. 2510 is in no wise a bill beneficial to or favored by Safeway alone. H. R. 2510 would make eligible for multiple licensing any enterprise owning more than 1 grocery store in the District of Columbia. According to our information, there are about 11 chains operating a total of approximately 125 retail grocery stores in the District.

(A letter of correction from Mr. Ford follows:)

FORD & LARSON,
Washington, D. C., July 17, 1957.

Re H. R. 2510.

Hon. JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: In my testimony before your committee today relative to H. R. 2510, I stated that according to information which had been obtained by us from the Alcoholic Beverage Control Board, there were 173 class B licenses outstanding in the District of Columbia. Correction by Mr. Alan W. Payne, Chairman of the Board, shows that this figure should be 516.

This error resulted from a telephonic inquiry of the ABC Board by one of my associates who understood the number to be 173. This was evidently the consequence of confusing the phonetic similarity of B and D over the telephone, since correction by Mr. Payne and subsequent inquiry of the Board disclose that there are 173 class D licenses outstanding. In other words, my associate inquired as to "class B" licenses, and the Board's employee apparently thought he said "class D" licenses.

We regret the error and wish to correct the record.

This correction may also affect the statistics on page 5 of our statement, where it is stated that "less than one-fourth" of the approximately 900 independent grocery stores hold class B licenses, and that "it would certainly seem that at least 1 out of 4" of these grocery stores would hold class B licenses.

Inquiry of the ABC Board's office following today's hearing discloses that the 516 class B licenses are not broken down or classified within themselves to indicate how many of these class B licenses are held by grocery stores. Hence, without such information we are unable to state what percentage or fraction of the approximately 900 independent groceries hold class B licenses, except, of course, we know that the number could not exceed 516, assuming that all of the outstanding class B license holders are grocery stores. We were not faced with this problem while we were under the mistaken impression that there were 173 class B licenses, inasmuch as 173 is less than one-fourth of 900, regardless of how many of the 173 holders were grocery stores.

Again we apologize for the error in numbers, but wish to assure you that this does not change what we believe to be the basic validity and logical soundness of our position in support of H. R. 2510.

Yours very truly,

PEYTON FORD.

The CHAIRMAN. That will be checked.

Thank you.

Mr. SCHULBERG. I think Mr. Schulberg represents the Retail Liquor Dealers Association of the District of Columbia.

**STATEMENT OF HILLIARD SCHULBERG, EXECUTIVE DIRECTOR,
WASHINGTON, D. C., RETAIL LIQUOR DEALERS ASSOCIATION,
INC.**

Mr. Chairman and members of the committee, my name is Hilliard Schulberg. I am the executive director of the Washington, D. C., Retail Liquor Dealers Association, Inc. I appear here today on behalf of the association in opposition to H. R. 2510, a bill which would amend the District of Columbia Alcoholic Beverage Control Act by permitting the indiscriminate issuance of a retailer's class B license for each branch store of chain-store organizations. The retailers' class B license presently permits the sale of beer and wine for off-premises consumption and limits each licensee to one establishment.

The association which I represent is composed of those retailers who are engaged in the sale of alcoholic beverages for off-premises consumption. These retailers are small-business men, each of whom operate an individually owned store. The association believes that the proposed legislation would not be in the public interest, would be most detrimental to the orderly distribution of alcoholic beverages in the District of Columbia, would be "special interest" or "class" legislation and would be economically unsound.

Admittedly the business of dealing in alcoholic beverages is fraught not only with economic implications but with social and police problems as well. This bill would destroy personal owner management, a safeguard against the sale of alcoholic beverages to minors and others who should not be permitted its use. In its place would come impersonal supervision, with the resulting laxness that comes from absentee management. It is well known that these chainstores are self-service operations, that their customers are mainly women and children who serve themselves from display racks. Every State in the Union and the District of Columbia has some regulation prohibiting the sale to and the handling of alcoholic beverages by minors. The proposed legislation would tear down this protection, by making the availability and access to alcoholic beverages open and easy. It would create a serious social and police problem and contribute greatly to juvenile delinquency.

Let us examine the present distribution system. Has there been any complaint from the citizens of the District that the present system is not working well, that the public is not well serviced? Apparently not, for the Federation of Citizens Associations of the District of Columbia is on record in opposition to the instant bill, and so, too, is the Federation of Business Men's Associations. I understand these organizations have filed their opposition with the committee and asked that it be made a part of the record.

The CHAIRMAN. We have a statement that will be included in the record.

Mr. SCHULBERG. Should not the desires of the citizens of the community be given consideration?

And we are advised that the Alcoholic Beverage Control Board, the agency charged with enforcement of the alcohol beverage control laws of the District, is opposed to the instant bill.

Speaking of service to the public, we should like to call to the committee's attention that there are presently approximately 1,700

licenses of all kinds in the District of Columbia, operating establishments where beer and wine may be purchased. The population of the District, including men, women, and children is approximately 820,000. This would make a present source of supply of 1 dispensary for every 482 people, which figure includes men, women, and children as aforesaid. Eliminating children and those who do not indulge—33 percent, based upon a national poll—it would lower the number to be served by a particular dispensary to 160 people. If anything, it would seem to indicate the need for less outlets, rather than more outlets.

And we think it is significant, too, that our neighboring State of Maryland, which operates under the private enterprise system as we do in the District, has the same law as the District, limiting such licenses to one establishment per individual.

Who then favors the proposed legislation? From what we can ascertain, it is solely the Safeway Stores. While it is true other chains could benefit from the legislation, we are informed that they have not joined with the Safeway Stores in support of the legislation, and in fact do not desire it. So that to approve the instant bill, we think you will agree, would be strictly "special interest," or "class" legislation.

I might at this point add if the other chain establishments were to take advantage of this legislation, every 5- and 10-cent store, every chain drugstore, every chain hardware store, every chain food store would become eligible for licenses, and instead of control of the orderly distribution of alcoholic beverages, all we would have here as a result thereof would be a complete breakdown of control.

From an economic standpoint, this measure, innocuous as it may appear on the surface, is actually the most vicious type of insidious, monopolistic legislation. This bill, if enacted, would precipitate the rankest type of unfair competition. It is well established that the chainstores have many outlets and terrific buying power. It is further well established that the licensed liquor dealer in this community is a small-business man, who is limited to his one specialized operation. It is obvious that a chainstore organization would hold a tremendous economic advantage over the individually operated store. This advantage, resulting from this superior buying power, economic strength, and the ability to jockey prices, would result in chaos and will spell financial ruin for the individual operator. It also must be remembered that the chainstores have the choice locations. Were the limitation on the number of licenses one could hold be eliminated, we are confronted with the fact that no locations are available.

We are certain this committee is well aware of the tactics of the chainstores, with their loss leader devices. One can well realize that by employing such tactics, the chainstore can easily drive the small-business man, who is in a highly specialized business, out of the market and from the economic scene. And once having driven the individual out of business, the chains would then raise prices again, higher than those that previously existed. The public would be the loser.

This is not just biased opinion. I quote Time magazine, of July 1, 1957, page 70, reporting on the criminal conviction of the Safeway Stores and two of its officers:

Biggest antitrust fine levied against single defendant under present laws was slapped on Safeway Stores, Inc., second largest United States grocery chain (after A. & P.). Federal district court in Fort Worth fined Safeway and its executives \$187,500 after company did not contest charges that 150 of its stores in Texas

and New Mexico sold groceries below wholesale cost to run out competitors in 22-month price war.

And the Washington Post and Times Herald of June 19, 1957, on the same subject:

Safeway, Miss Brass told the court, has been a perennial antitrust violator since 1942. * * * The Fort Worth case is the fifth antitrust case against the corporation since that time. * * * The corporation took a \$4 million loss the first 15 months of the war on hundreds of items sold at below invoice cost. * * *

I think this honorable committee will agree with me that the proponents of this legislation do not come before it with clean hands, and are certainly not entitled to the special privilege which they seek.

The small retail liquor dealer in most instances has his life savings invested in his business. His business becomes his only asset and because he has just a privilege he maintains constant personal supervision of his business. He pays an annual license fee of \$1,250. He pays Federal and District income taxes, District personal property and real-estate taxes, and is part of an industry that annually contributes billions of dollars to the Federal Treasury. He gives employment to citizens of the District of Columbia and helps support its economy by using the services of its utilities, its banks, its professional people and other business establishments. He supports its churches and charitable institutions.

We think you will agree that along with the public, he is entitled to some protection against the onslaughts of the chainstores. For while the primary consideration must be the protection of the public through the orderly distribution of alcoholic beverages, and the public is satisfied with the present system and wants no more outlets, we must point out that under present conditions in the District, the vast majority of retail liquor store operators make a small return, if any, on their investments.

And finally, from the revenue point of view, we believe it would cost the District more to police and supervise the chainstore outlets, than it could possibly hope to gain. The chainstore would pay an annual license fee of \$165 per store as against \$1,250 for a package store. Assuming that Safeway could qualify 60 of its seventy-odd stores for licenses, the total revenue that the District could expect is \$9,900. It would cost more than that for the man-hours spent by the Police Department and the ABC Board inspectors.

We repeat, therefore, that for the reasons given, this bill tends strongly toward monopoly and is definitely not in the public interest. This bill, we are informed, has been before the last five Congresses and has always failed of enactment.

We respectfully request this honorable committee that it deny its approval to H. R. 2510.

The CHAIRMAN. Are there any questions?

Mr. HYDE. I have a question, Mr. Chairman.

The CHAIRMAN. All right.

Mr. HYDE. Mr. Schulberg, you say this would be special interest or class legislation.

Mr. SCHULBERG. Yes, sir.

Mr. HYDE. Isn't the present law the same thing?

Mr. SCHULBERG. No, sir.

Mr. HYDE. Why? It permits one class of stores to sell it and not another.

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Mr. SCHULBERG. No, sir. As a matter of fact, the present law is quite democratic. It permits one license per individual.

Mr. HYDE. I know, but it permits a class, namely, the independents, to sell, and not another class, namely, the nonindependent.

Mr. SCHULBERG. It permits the chainstore to have a license, just as well as any other individual. And I think if I might anticipate your next question, I think that the Congress originally set that up because they wanted the protection of that, and a responsible person to whom they could look, should there be violations.

Mr. HYDE. Mr. Schulberg, I think we know why it was set up. It was set up to prevent the condition that existed in the industry prior to the Volstead Act. Now, let me get on to the next question, if you will.

Mr. SCHULBERG. Surely.

Mr. HYDE. You say it would create serious social and police problems and contribute greatly to juvenile delinquency.

Now, that bothers a great many of us. Do you have any history of this?

Mr. SCHULBERG. Yes, sir.

Mr. HYDE. Where?

Mr. SCHULBERG. Right here in the District of Columbia.

Mr. HYDE. How is that?

Mr. SCHULBERG. At one time one of the chainstores—I believe it was Giant—had a license on Georgia Avenue, and because of the many problems with juveniles and the obtaining of beer and wine by juveniles from the shelves—unsupervised shelves, I might add—the chain felt the necessity of giving up their license.

Mr. HYDE. The chain gave it up?

Mr. SCHULBERG. Yes, sir.

Mr. HYDE. And when was this?

Mr. SCHULBERG. I am told it was in the early forties.

Mr. HYDE. Where was the store?

Mr. SCHULBERG. On Georgia Avenue.

Mr. HYDE. Where on Georgia Avenue?

Mr. SCHULBERG. I would think it was the 3,400 or 3,500 block.

Mr. HYDE. You mentioned the State of Maryland now operating under private enterprise. You are familiar with the local option system out there?

Mr. SCHULBERG. Well—

Mr. HYDE. And the fact in my county we have dispensaries regulated by the Government?

Mr. SCHULBERG. I live in Montgomery County, too, and as I understand it, the chainstores there have only one license.

Mr. HYDE. That is right. I just wanted to know what you meant by private enterprise. Do you consider a dispensary private enterprise?

Mr. SCHULBERG. No, sir. A great majority of the State of Maryland is under the private-enterprise system, I think you will agree.

Mr. HYDE. You said that the other chainstores are not in here supporting the Safeway. Do you have any evidence that they oppose the bill?

Mr. SCHULBERG. Well, Mr. Hyde, I would answer the question this way: I have communications which I regard as confidential which have informed me that the other stores were approached and refused to join in.

Mr. HYDE. They refused to join in?

Mr. SCHULBERG. They felt it would not be a good bill and that it would not be conducive to good relations.

Mr. HYDE. Were they willing to come before the committee and say they refused to join in?

Mr. SCHULBERG. I will again indicate I hope you will respect the fact—

Mr. HYDE. So they are not willing to come in here, either one way or the other.

Mr. SCHULBERG. I cannot go beyond what I was told.

Mr. HYDE. Now, on this economic thing, it would precipitate the rankest type of unfair competition—

Mr. SCHULBERG. Yes, sir.

Mr. HYDE. Would the competition it creates for you be any different than the competition Safeway creates for a grocery store?

Mr. SCHULBERG. I would answer it this way: The Safeway people could very well take the beer and develop it into a loss leader proposition. That has happened—for example, what they did in the Texas—

Mr. HYDE. Well, they take other items and use them as loss leaders, too, don't they?

Mr. SCHULBERG. Yes, and I am glad you asked that question, because I would like to show you a few things that have occurred, if you will just bear with me for a moment.

Incidentally, that advertisement that Mr. Dowdy referred to earlier, I have a copy of that ad, and this is an ad by the Food Barn, a chain of 5 stores—they have 3 in the District of Columbia, using beer as a loss leader. I would like to make that a part of the record. They are selling beer at 5 cents, which is definitely a loss leader.

The CHAIRMAN. Without objection, the ad referred to will be made a part of the record.

(The material referred to follows:)

BRINGING YOU THE MARKET'S BEST BUYS!

FOOD BARN

The Road to SAVINGS

in
Southeast
Washington

NO SALES
TO DEALERS

REGENT PILSENER
BEER

case of 24

1.20

plus deposit

5
12 oz.
bottle

On Sale at Southeast Store ONLY!

[From the Washington Post and Times Herald, March 20, 1956]

Mr. SCHULBERG. I would like to show an ad in Advertising Age, June 24, 1957, where it says:

SAN FRANCISCO, June 8, 1957.

Safeway Stores, Inc., has been accused here of drowning its competitors in beer being purchased at 60 cents a case less than the price paid by the neighborhood grocery.

Mr. HYDE. But the question is, Mr. Schulberg, Would the competition created for the people you represent be any different from the competition created for grocery stores?

In other words, your argument seems to me to go to the whole philosophy of whether chain stores are good or bad, as a matter of public policy, and should be eliminated. Is there any difference?

Mr. SCHULBERG. I think that we have a specialized problem in alcoholic beverages and I think that its comparison with any other field of endeavor, improper.

Mr. HYDE. You have a specialized police problem. Do you have a specialized economic problem?

Mr. SCHULBERG. I think you do, because as you referred to earlier in a number of the questions you asked of me, one of the problems before prohibition was the number of outlets, the control of the breweries—their control and possibly the distilleries of, the retail outlets. And the fact if there were too many outlets there was a tendency toward law violations.

As I pointed out there are approximately 1,700 licensees of all kinds in the District of Columbia where one can get beer and wine. That is 1 for every 160 adults who might indulge in alcoholic beverages. As the competition gets rougher and rougher, the tendency toward law violation increases.

Now, those who are engaged in a business today have a lot of money invested in their business; they have their life savings and they want to stay in business. If we encourage possible law violations we are not going to have the public on our side for too long, and eventually we will be forced out of business. We want to keep the business clean; we want to keep it operating in a lawful fashion. We want to keep it so that people will use alcoholic beverages in moderation, and that is the reason I feel that this business is different than any other business and therefore needs special protection.

Mr. HYDE. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Allen.

Mr. ALLEN. Mr. Schulberg, some mention has been made that Safeway sells beer in Virginia. I am curious to know whether there have been any difficulties called to your attention because of that operation.

Mr. SCHULBERG. Well, I would point out to you Mr. Allen, that the State of Virginia is a monopoly State. There is no private enterprise over there. We have private enterprise, here, and our neighboring State of Maryland has essentially private enterprise, forgetting Montgomery County for the moment.

Mr. HYDE. And several others.

Mr. SCHULBERG. And 2 or 3 others.

The State of Maryland essentially is a private enterprise State, but I understand that even in the monopoly county of Montgomery the chain store is permitted only one license.

Now, in your State of California, just as recently as July 7, there was an attempt made to increase the number of beer and wine licenses.

It was killed by the California Assembly's government organization committee. There they attempted to increase the number of beer and wine licenses for offsale consumption, and it was rejected on the ground that they are more than sufficient and there the ratio is 1 to 1,000. Here it is 1 to 160.

MR. ALLEN. I was thinking more of the complaint that minors and children were buying or could buy beer.

MR. SCHULBERG. I have no statistics, of course, from Virginia, but another thing that I would point out to you, Mr. Allen, is that the chain stores open before the legal hours. They are open, as I understand it, at 9 o'clock. The legal hours here start at 10. There is a 1-hour interval. Incidentally, I don't know why the proponents have always stayed away from mentioning wine, but if this bill should become law, they will also sell wine. It is displayed on open racks, anybody can come along and take it off the rack and the possibilities of, well, of improper persons getting it, are so much enhanced.

THE CHAIRMAN. Thank you very much, Mr. Schulberg.

MR. FORD. Mr. Chairman.

THE CHAIRMAN. Mr. Ford.

MR. FORD. May I, as Mr. Payne did to me, attempt to correct this witness?

It is true we have had antitrust cases, but they have all been disposed of. We are now under different management than we were at the time those cases were brought.

If we want to compare antitrust cases, I could give you a long citation involving the liquor industry and some liquor dealers in this district, and a recent case in Baltimore.

We pay taxes as does everybody else. We contribute to charity, as does anybody else.

As to the other chainstores, the Giant Stores have written Judge Smith a formal letter—and I am not dealing with a confidential informer, here—favoring this bill. I have discussed it with the attorney for Food Fair. They favor it.

American Stores doesn't handle beer, as I understand, in any States, and A. & P. has a very small number of stores, here.

So the other chains are in favor.

One other item I failed to mention is that the ABC Board on two previous occasions—and I think Mr. Payne was Chairman on both occasions—has reported favorably. It is only recently that they have become in conflict.

MR. HUTCHER. Mr. Chairman, may I have a word to say as a citizen of Washington, D. C.?

THE CHAIRMAN. I will get to your name in just a moment.

MR. SCHULBERG. I don't want to get into any dispute with Mr. Ford, but since he mentioned that the ABC Board in the past has favored and now opposes, I might say the Commissioners have done the same thing. They have been on record in opposition to this bill, too.

THE CHAIRMAN. Thank you very much. All that will go in the record.

We have Mr. Milford F. Schwartz, Wholesale Liquor Dealers Association.

MR. SCHWARTZ.

STATEMENT OF MILFORD F. SCHWARTZ, WHOLESALE LIQUOR DEALERS ASSOCIATION, WASHINGTON, D. C.

Mr SCHWARTZ. I am Milford F. Schwartz; I am an attorney and represent the Washington Wholesale Liquor Dealers Association. Ours is an organization of 11 wholesale liquor dealers handling nationally advertised lines of liquors. Some of our members are wholesalers of beer.

We are opposed to H. R. 2510.

Our members have tremendous amounts of capital invested in their businesses; we are among the highest taxed and contribute substantially to the tax structure of both the Federal and District of Columbia Government.

We are vitally interested in the welfare, both economic and otherwise, of the local retail beverage dealers.

Our opposition to this bill is for the following reasons: The present system of distribution of beers, wines and liquors has worked well in the District of Columbia; we have a high standard of conduct among our licensees; we have more than enough outlets now handling the beverages which are the subject of the bill.

We have learned that a retailer who is strapped financially is more prone to skirt the strict provisions of the laws governing our products than is one whose business is sound and not fraught with the dangers of competition with the chains.

The proposed bill would produce no more revenue for the Federal or local governments; actually it would increase the enforcement problems of the District of Columbia by increasing the number of licensees to be inspected by a group of inspectors now already too small.

Our citizens do not ask for the change; they are already well serviced in their requirements for beer and light wines by the effective operation and management of the locally licensed package and other stores handling the products which are the subject of the proposed bill.

Because of the prohibitions against intoxicated persons and minors handling our products their sale in large chain supermarkets will present insurmountable problems when such products are displayed in self-service stores. The manager and/or clerk in such an establishment neither has the time nor the inclination to be as zealous in keeping such products out of the hands of a person whom the law forbids having them as would the operator of the small independent establishment.

The sale of beer and light wines in the summertime represents from 50 to 60 percent of the net income of the small package beverage dealer. Putting them in competition for the sale of these products with the supermarket will have a disastrous effect on the economic situation of the small retailer.

We urge upon you that this bill not be passed.

The CHAIRMAN. We are glad to have your statement.

Does anyone here care to ask a question?

If not, we thank you very much. Your statement will be inserted in the record.

Miss Elizabeth Smart, of the WCTU.

STATEMENT OF ELIZABETH A. SMART, WOMAN'S CHRISTIAN TEMPERANCE UNION

Miss SMART. I am Miss Elizabeth A. Smart, my address is 144 Constitution Avenue NE, Washington, D. C. I am representing the National Woman's Christian Temperance Union. The National Woman's Christian Temperance Union maintains a bureau of legislation here in Washington, of which I am in charge. I also have a secretary who resides here. Both of us buy groceries in Washington. We are at present able to buy them without having to come in contact with the sale of alcoholic beverages because of the very wise and reasonable provision in the District of Columbia regulations which limits each chain of grocery stores to one license.

We are adults. But there are many families with children living here in the District who might occasionally wish to send a child on an errand to a grocery store. It is only fair to the very large number of adult citizens of the District, who object to alcoholic beverages that they be allowed to buy necessary groceries in stores which have no resemblance to a saloon or a package liquor store.

With the large number of outlets for the sale of beer and wine, already operating in the District of Columbia, it can certainly not be said that anyone desiring to buy either of these articles will in any way be deprived of a convenient and nearby place where they may be obtained if you refuse to pass this bill. Whereas a large number of the residents of the District will be very unhappy if they have to go into a package beer and wine store to buy groceries.

But when it comes to children, there is a very real danger of something more serious than this. Children cannot go into taverns unaccompanied by adults. But they can go into grocery stores. The law against sale of alcoholic beverages to minors will run some hazard of being violated. The possibilities of juvenile delinquency will rise. This is something that very definitely should be weighed against the question of some added profit for stores which are already in a strongly entrenched position to make and increase their profits.

The District of Columbia is already pretty well saturated with alcoholic beverage outlets. I understand there are some 1,700 where beer and wine can be purchased. Last year when a similar bill to this was being considered the National Temperance League made a survey which indicated this would increase the number of outlets by some 850. I now understand that means for the metropolitan area. That would be 206 more in the District. The reputation of the Capital City of the United States will not gain anything from such an increase to an already oversaturated position.

We urge your committee not to report this bill.

In connection with this, Mr. Chairman, I do not judge from the questioning here that anyone on this committee is unaware of the danger, of beer, but there have been statements made that beer is an innocuous beverage. In this New York Post there was an article entitled "Beer Drinking Son Kills Mother and Baby Sister. An 18-year-old boy admitted today he got murderously drunk on stolen beer."

I don't think I need to read the whole of it, but I think that that is very definitely a possibility where these juveniles can get into these stores and get, on some pretense, beer.

The CHAIRMAN. Thank you very much, Miss Smart. We are indeed happy to have your statement.

Miss SMART. Thank you.

The CHAIRMAN. I have here also a statement from Mrs. Newburgh. Miss SMART. Mrs. Newburgh was here this morning, and would like to present her statement.

Mr. MATTHEWS. Mr. Chairman, I would like to tell Miss Smart how much I have enjoyed her statement.

Miss SMART. Thank you, Mr. Matthews.

Mr. MATTHEWS. One of the great influences in my life has been the WCTU. I think it is very important to point out the fact that beer and wine and ale, no matter how many fine people consume it, isn't exactly like milk and bread and butter, and I don't think we ought to apologize for expressing that statement.

I just want you to know that I particularly appreciate what you said.

Miss SMART. Thank you. I wasn't intending to apologize for this statement, but I have heard some people talk about how harmless beer is. I didn't imagine anybody on this committee would be under that illusion, but I wanted to put something in the record on that statement.

Mr. DOWDY. I think you have made a fine statement, too. I have noticed the remarks about beer being a foodstuff. I didn't quite agree with that either. I think it is more than a foodstuff.

Miss SMART. I don't think it is a foodstuff at all, Mr. Congressman. According to all the records, it doesn't operate like food when it gets into your system.

The CHAIRMAN. Mrs. Newburgh, would you come up, please?

Miss SMART. Thank you.

STATEMENT OF MRS. FREDERIC NORTON NEWBURGH, LEGISLATIVE CHAIRMAN, DISTRICT OF COLUMBIA WOMAN'S CHRISTIAN TEMPERANCE UNION

Mrs. NEWBURGH. Mr. Chairman and members of the committee, this is a statement of the District of Columbia Woman's Christian Temperance Union.

I am Mrs. Frederic Norton Newburgh. My address is 2651 Connecticut Avenue NW., Washington, D. C. I am legislative chairman for the District of Columbia WCTU, for whom I am testifying.

We are decidedly opposed to the Smith bill, H. R. 2510. This would greatly increase the number of places where young people would be brought in contact with alcoholic beverages. The District of Columbia is already in disgrace for the amount of alcoholic beverages sold here in comparison with other cities. Anybody looking for such beverages could find them everywhere without adding more in more grocery stores.

I am submitting herewith an article from the Christian Science Monitor, which I would like to read to the committee. [Reading:]

The wind was blowing briskly toward the outfield, and even softly hit flies were coming close to the home-run territory. It was a day for hitters, not pitchers, and therefore it was an especially fine day to introduce baseball, big-league style, to my little boy just turned seven.

Little boys, like most newcomers to the game, get bored with pitching duels, but there is something dramatic about the long ball, lofting far out over the barrier and landing in a nearby street, that even the novice can understand. Here is

dexterity, strength, coordination, timing, and consummate success—all in the simple stroke of a bat. The home run is a beautiful thing to see and easy to understand, even if you haven't seen such a thing before.

But my little boy couldn't keep his eyes on the ball, and neither could I. Our eyes were on the beer vendors all around us, pouring beer and passing cups down the aisles—almost constantly, or so it seemed.

As the long day of baseball wore on, the beer began to show through in many ways. Fights broke out in several spots in the stands. An old man was pushed down and injured. A woman was struck during a mob fight. She had to be carried from the park. The ushers and police were most efficient in handling the fights, once they had begun. But there was no effort to curb the beer drinking. This clear and present danger was allowed to persist.

Those who enjoy their baseball don't always mention it, but one of the attractions at the game is the friendly banter in the stands. It is fun to take part in it—to second-guess a base runner who has been caught stealing, or to josh a manager whose strategy has backfired. But banter, plus heavy flowing beer on a hot afternoon, becomes something else: loose language, profanity, obscenity. I kept up a running conversation with my little fellow to try to keep his thoughts off those unwholesome distractions.

On the way out of the park, after the game, a particularly unhappy incident occurred. A drunk, weaving back and forth on a ramp, collided with me. He was belligerant, and I apologized (I don't know what for). I moved on quickly to let the crowd separate us.

It was a day for beer, not baseball.

Jack Mabley, writing in the Chicago Daily News, thus appraises the scene that my son and I had witnessed:

"The drunkenness, fighting, and hoodlumism at the baseball parks during Sunday doubleheaders has become too serious to continue to ignore.

"Comiskey Park and Wrigley Field become literally the biggest saloons in the world.

"On a 90° plus day, with ten or fifteen thousand men and women pouring beer down their throats for hours, it is impossible to avoid drunkenness.

"Brawling is inevitable in the emotion-charged atmosphere.

"It is becoming worse.

"The managements of the ball clubs have done nothing to curb the drunkenness. A widespread riot is a serious threat. * * *

"Last Sunday at Comiskey Park they piled beer cases in the corridors under the stands: Every beer vendor in the park was selling as fast as he could pour.

"It is impossible to avoid the conclusion that the ball clubs have allowed the condition to continue, because no one has blown the whistle on them.

"Writers are reluctant to bring it up. They don't want to appear prudish. They love baseball, and such publicity will hurt baseball.

"The rowdyism now is so dangerous that to continue to tolerate it is more of a hazard to baseball than is the publicity which exposes it. * * *

"The owners of the Cubs and White Sox must face up to this danger.

"It would be simple to lift their liquor licenses for selling to minors. * * * It would be far healthier if the policing came voluntarily from the clubs themselves.

"Their present policy will drive more and more decent people away from the ball parks.

At the root of this evil is money. * * *

"Too much attention to this revenue on the part of the owners could cause them to overlook a not very hidden depreciation in the asset of goodwill on which their business is based." (Christian Science Monitor, June 7, 1955.)

Beer is not only running our ball games, but in too many instances our homes, as those who deal with the problem of juvenile delinquency will tell you.

We urge you not to report this bill.

The CHAIRMAN. Thank you. Your statement will be inserted in the record.

Mrs. NEWBURGH. Thank you very much.

The CHAIRMAN. We have Mr. Jack Boelens, representing the Washington Federation of Churches. I have his statement for insertion in the record.

(The statement follows:)

WASHINGTON FEDERATION OF CHURCHES,
Washington 6, D. C., July 12, 1957.

Re H. R. 2510.

To the House District Committee.

Mr. CHAIRMAN: I am the Reverend Jack Boelens, minister of Garden Memorial Presbyterian Church, chairman of the social education and action committee of the Washington City presbytery, and chairman of the commission on community life of the Washington Federation of Churches.

Our commission on community life of the Washington Federation of Churches has not had an opportunity to study this bill, nor has the committee on social education and action of the Washington City presbytery. Nevertheless, I have been asked to appear here on behalf of both because of the consistent stand of both groups against the increase of sale outlets for alcoholic beverages. I do not have access to the figures at this time, but the Federation of Churches some time ago made a study of the number of outlets on a population basis in the District, and was amazed at the number, which was far beyond the needs of our District population.

Our food stores are places which are patronized by families, particularly women with their children, and we feel, therefore, that it ought not to be allowed to have alcoholic beverages so easily obtainable.

It stands to reason, we believe, that the easier it is to purchase alcoholic beverages, the greater will be the sale and the consumption. The District of Columbia already has a reputation which certainly is not enviable in the per capita consumption of alcoholic beverages.

We also are opposed to this bill strongly because of the increased possibility of the sale of such beverages to minors, which could result, naturally, in more traffic accidents and other acute problems.

We, therefore, urge the defeat of this, or any similar bill, which would increase sale outlets of such beverages.

JACK H. BOELENS.

Mr. HOLLAND. I represent the DGS grocery stores and would like to make a statement, if the committee will allow.

The CHAIR. All right, Mr. Holland.

STATEMENT OF JOHN D. HOLLAND, DISTRICT GROCERY STORES

Mr. HOLLAND. Mr. Chairman, members of the committee, my name is John D. Holland. I am a resident of the District of Columbia and personally own and operate a grocery store located at 13th and Pennsylvania Avenue SE., in Washington, D. C.

I appear before this committee representing myself and 260 other independent owners and operators of grocery stores which are associated for their mutual protection under the DGS, or District Grocery Stores, Inc.

Therefore, I am speaking for a specific number of small, independent businessmen in this community whose very livelihood is now placed in jeopardy by the proposed bill.

We are unalterably opposed to this bill for these reasons:

1. H. R. 2510 is unnecessary and undesirable because this bill would increase the number of retail outlets licensed to sell beer in Washington far in excess of the number of such outlets necessary to adequately serve the needs and convenience of the consuming public. At the present time there are already 893 retail outlets licensed to sell package beer in the District of Columbia, in addition to the 729 restaurants, taverns, and hotels where beer is sold for on-premise consumption.

These 893 off-sale outlets are located in every neighborhood throughout the District where the public now buys its food and beverages. So, on the basis of its present population, there already exists 1 con-

veniently located store to serve each 279 households in the District, although surveys show that only 53.8 percent of the families here buy beer for home consumption. This means there is actually 1 outlet now serving each 150 families that buy beer to take home.

Therefore, we contend that a sufficient number of retail beer outlets to adequately serve the needs and convenience of the public already exists, making the provisions of H. R. 2510 unnecessary and undesirable.

2. I contend that H. R. 2510 is also unnecessary and undesirable because it directly undermines and disregards one of the major principles of the licensing system in general, and that of the District of Columbia in particular, which traditionally concerns itself primarily with fixing the responsibility for the proper handling and sales of alcoholic beverages to be consumed off the licensed premises upon licensed individuals rather than upon multiple-outlet firms or corporations. H. R. 2510 would be disruptive of this time-proven system.

The basic merchandising plan of the chainstores is the self-service or so-called impulse-selling method. This proposed law would put beer in direct competition with milk and bread and other essential foods on the shelves of these chainstores.

So if the whole theory of impulse buying is correct, as the tremendous volume of business now done by the chainstores has certainly proved it to be, it becomes obvious that this bill would result in encouraging and influencing the housewife to spend a greater part of the family food budget for beer instead of for the essential milk and meat and groceries that her family needs.

There is but little likelihood of this occurring in the small, independent grocery stores where the proprietor himself usually waits on his customer from behind the counter, and the beer, if he sells it, is less conspicuously displayed—in fact, it is customarily kept in the refrigerator where the customer must ask for it.

In addition, the small grocer usually becomes personally acquainted with his customers, their families and their circumstances. He does not try to induce his neighbor, Mrs. Jones, to buy a case of beer she can't afford, in place of the milk and bread he knows that her children actually need. On the other hand, the constantly rushed checkout clerk at the chainstore is only concerned about adding up the total of everything in the customer's grocery cart as quickly as possible.

Then, too, the independent grocer is always conscious of the fact that if he sells beer to minors or other unauthorized purchasers, he jeopardizes his license, his investment and possibly his entire business, whereas the busy checkout clerk in the chainstore does not have this same responsibility and risks only the chance of losing a low-salaried job, which would not be too difficult to replace, as the maximum penalty he would receive for making an illegal sale.

His bosses, the officials of the chainstore corporation, usually in some distant city, are too remote from each individual transaction to exercise the care and direct responsibility which the sale of alcoholic beverages entails and demands under the licensed system of proper distribution.

Yet this bill would substitute the indirect responsibility of the absent officers of a firm for the present, on-the-scene, direct responsibility of individuals.

3. H. R. 2510 is unnecessary and undesirable because it would literally wipe out many small independent grocers who are actually

dependent upon the sale of beer as an important part of their present livelihood.

In turn, it would place this business in the hands of the large corporations operating the chainstores, which do not need the extra business they would do on beer if this bill were enacted.

As evidence of the fact that the chainstores do not need to engage in the beer business, I have here a clipping from the Washington Post's business section dated July 9, 1957, which carries the headline: "Safeway Net Rises 40 Percent in First Half." The first sentence of this article reads:

Safeway Stores reported net earnings of \$13,978,010 or \$3.41 a common share for the first 24 weeks of 1957, the highest income for that period in the food chain's history.

I think it is also pertinent you should know what these big chainstore corporations have already done to the small, independent grocer here in Washington—even without having the entire beer business of the District turned over to the chains as this bill unquestionably proposes to do.

I quote from the census of business report of the Department of Commerce. In 1948 there were 1,906 food stores in Washington, D. C., doing a gross business of \$209 million. In 1954 there were 1,484 food stores in the District of Columbia doing a gross business of \$224 million. So in that 6-year period over 500 independently owned grocery stores were forced out of business by the chains.

Today there are approximately 116 chain food stores in the city which are estimated to do about 90 percent of the entire volume, leaving only approximately 10 percent of the total food business to be distributed among more than 1,300 small independently owned groceries—many of which are the so-called mama- and papa-type groceries in which the man and his wife run their little store and usually live on the floor above it because they are barely managing to exist on the tiny share of the business they now get.

Today it is generally estimated—since no exact market data is available—that in Washington the Safeway does 36 percent of the total food business; Giant 20 percent, A. & P. 10 percent; Food Fair 9 percent; Food Town 7 percent; Acme 5 percent, and the other chains about 3 percent. So with 90 percent of the business already lost to them you can readily see how the loss of the beer business on top of this would just about completely wipe out the small independent grocer.

I respectfully submit to this committee that H. R. 2510 would simply rob the small grocer of business he so badly needs, and turn it over to the large corporations which already have the lion's share of it and are already enjoying the highest net earnings in their history without it.

4. H. R. 2510 is unnecessary and undesirable because it would lead to unfair, monopolistic practices which are not in the public interest.

As an individual who for many years has been in constant daily contact with this situation, I wish to explain to the committee exactly how this destruction of the small independent stores has been, and is being, brought about.

Through its mass buying power the big chainstore corporation immediately eliminates the wholesaler and—because of the huge quantity involved in each buying transaction—does business directly with the manufacturer or, in this case, the brewer, at the chainstore's

own terms. Thus it can buy cheaply and therefore can afford to sell at prices far below what the small retail store would have to charge.

In fact, if it chose to do so, the chainstore could well afford to practically give its beer away at prices far below its own low cost—using it as a loss-leader—and making up for the loss on the volume of all the other commodities it sells.

The small merchant cannot afford to operate in this manner so this makes it impossible for him to compete. As a result, the small merchant is forced out of business. Then, with competition knocked out, the large chainstore corporation actually has a monopoly and can hike its prices to the public as it sees fit. In the long run, of course, the public does not gain by such a practice and would most likely end up by paying considerably more for its beer than it now pays.

I might also add that whereas the public—now under the free competitive system of distribution—has a choice of practically every local and national brand of beer that is produced, if the beer business were taken over by the big chains, not only would the public's choice be limited to a few brands but through the pressure-bargaining tactics of the chains the natural tendency would be to cheapen the quality of the product to conform to the forced low price.

This method of eliminating competition by the chainstore corporations is not just an idle fancy of mine. Such things are actually happening as you can readily see by the Associated Press report of a recent case in the Federal Court in which the Government brought an antitrust suit against one of the proponents of this bill you are considering today.

On June 18, 1957, in the Federal district court at Dallas, Tex., Judge Joe Estes handed down his decision in this case fining Safeway Stores, Inc., \$105,000 and sentencing 2 top executives of the food chain to 1-year prison terms in addition to fining each of them.

The defense counsel was quoted as saying:

This is not a price-fixing case. The only charge against us is that we sold below cost and for the purpose of destroying competition.

So I submit to you, Mr. Chairman, if you enact H. R. 2510 into law, you would be setting up right here in the Nation's Capital all the elements for a condition which the Federal court in Dallas just last month considered so reprehensible—so contrary to the public interest—that it meted out one of the severest penalties ever imposed in a suit of this kind.

I have brought with me data to substantiate the statements I have just made, and will do my best to answer whatever questions the committee might wish to ask me.

In conclusion, I contend that H. R. 250 is unnecessary and undesirable because: (1) it is not in the public interest; (2) it would be disruptive of our present system for controlling the sale and distribution of alcoholic beverages; (3) it would destroy many small businesses; and (4) it would set up all the elements for a beer monopoly in the Nation's Capital and eventually bring about the same undesirable trade conditions which once before paved the way to national prohibition.

I am just a small-business man, Mr. Chairman, and I am not here to ask you to do anything to help me increase my business—as badly as all of us in my position need help. I am here simply to ask you to refrain from going out of your way to enact legislation that will

benefit only private interests and that will encourage and openly invite monopolistic practices which would completely destroy not only my own business, but the very livelihood of many small-business men like myself who are directly involved.

Thank you.

The CHAIRMAN. Are there any questions?

Mr. ALLEN. I have no questions, Mr. Chairman.

The CHAIRMAN. Thank you very much. Your statement will be inserted in the record, Mr. Holland.

Mr. HOLLAND. I have a copy of the article Mr. Schulberg spoke of of the Advertising Age of June 24, which I would like to also insert in the record.

The CHAIRMAN. Without objection it will be inserted in the record.
(The document follows:)

[From the Advertising Age, June 24, 1957]

COAST BEER SELLERS WANT SAFEWAY'S BEER LICENSE TAKEN AWAY

SAN FRANCISCO, June 18—Safeway Stores Inc. has been accused here of "drowning its competitors" in beer it can purchase for 60 cents a case less than the price paid by the neighborhood grocery.

The accusation was made at a hearing of the State alcoholic beverage control department by Albert G. Evans, attorney for the California Beer Wholesalers Association.

The association has asked for revocation of Safeway's wholesale beer license, which Mr. Evans declares is "driving the small grocer out of the beer business."

"As a wholesaler," Mr. Evans told the hearing, "Safeway buys beer from the breweries at a 60 cents a case markoff. Beer is fair traded so they charge the customer just as much for it."

"Then, with the money they make on the beer," Mr. Evans continued, "Safeway can cut prices on the rest of its products. This is unfair competition for the small grocer, who pays 60 cents a case more for his beer."

The Oakland supermarket chain replied to the accusation by asserting the company performs the warehousing and distributing functions of a wholesaler and bears the full expense of these operations through a wholly owned affiliate known as Beverage Distributors Inc.

J. E. Million, former head of the beer division of this affiliate, told the hearing that the subsidiary firm had been set up for the purpose of selling only to Safeway.

The hearing, conducted by Hearing Officer E. A. McDonald, was held to determine whether a 1951 decision upholding Safeway's right to a wholesaler's license, should stand.

The CHAIRMAN. Mr. Willey, the Federation of Citizens Associations.

Mr. LEEMAN. My name is Herbert P. Leeman. I am here in place of the name that you called.

The CHAIRMAN. Do you care to make an oral statement?

Mr. LEEMAN. Just a short oral statement.

STATEMENT OF HERBERT P. LEEMAN, FEDERATION OF CITIZENS ASSOCIATIONS

Mr. LEEMAN. I want to say I am a native-born resident of the District of Columbia and I am a member of the committee on law and legislation for the Federation of Citizens Associations. The Federation of Citizens Associations is made up of about 66 individual associations covering practically the whole area of the District of Columbia. This bill, H. R. 2510, was considered by the committee on law and legislation and it recommended to the Federation of Citizens Associations that we oppose the enactment of it and the Federation of Citizens

Associations on February 28 unanimously went on record as opposed to the enactment of this bill into law.

The CHAIRMAN. Your association is unanimously on record?

Mr. LEEMAN. As opposed to it. Many of the arguments that have been advanced this morning in opposition to this bill, Mr. Chairman, are those that were used by members of the association. We coincide with the views expressed.

The CHAIRMAN. Thank you very much for your views.

Mr. ALLEN. Mr. Chairman, may I ask how the vote was taken and who was present?

Mr. LEEMAN. When the vote was taken?

Mr. ALLEN. How was it taken, by referendum of some kind or voice vote?

Mr. LEEMAN. The federation is made up of two delegates from each of these associations and usually the majority of the associations are represented at one of the federation meetings. That is one of the bodies representing the citizens in the District of Columbia that is well attended because it is a delegated body and the delegates feel that it is their duty to attend. The question was put on the adoption of the resolution and all of those present voted aye. When they called for the noes, nobody voted in opposition.

Mr. ALLEN. Do the delegates get instructions from their respective associations beforehand or are they representatives who vote the thoughts of their associations?

Mr. LEEMAN. Unless they are instructed—the theory of our organization is that the delegates know the sentiments of the people residing in the various neighborhoods and they usually vote the sentiment of the people that they represent. On certain questions, questionnaires are sent out and the individual associations do take action. When they do, their delegates vote as they are instructed.

Mr. ALLEN. Thank you.

The CHAIRMAN. This gentleman here wanted to make a statement.

STATEMENT OF SAMUEL HUTCHER

Mr. HUTCHER. Before I give my name I want the committee and the chairman to excuse my appearance.

My name is Samuel Hutcher, I live at 3811 Veazey Street NW., Washington, D. C.

I just want to say a few words to this committee.

The CHAIRMAN. If you will make it as brief as possible. We approve of your dress.

Mr. HUTCHER. When you walk into most of the cities in this United States, you have seen a grocery store, a vegetable store, a butcher store, a little hardware store, and many 5-and-10-cent stores run by little people. I don't represent anybody. I am a taxpayer of this District of Columbia and I want to ask this committee if the little-business man has a right to live in this country or not, or whether the big chainstores are going to swallow them up. What is going to happen to the small-business man? There is no more small-business man.

The CHAIRMAN. Are you for or against this bill?

Mr. HUTCHER. I am against this bill, because there is no such a thing. You walk in today into a grocery store and what do you see?

You have to look for the groceries. It is a department store. Now, they want to swallow up the rest of it, what is left.

The CHAIRMAN. Thank you very much.

Mr. HUTCHER. They are a lot of selfish people, and that is all they are.

The CHAIRMAN. Thank you.

STATEMENT OF DR. CARADINE R. HOOTON

Mr. Hooton. I am Caradine Hooton, of the Methodist Church. In the absence of the Washington Federation of Churches representative, may I file or even make a statement on behalf of one of the member churches of that organization?

The CHAIRMAN. Yes, sir. I have one statement which was left, and you may file another if you would like, also.

Mr. Hooton. I would like to file one from the Methodist Church.

The CHAIRMAN. Without objection it will be inserted in the record. If you will give the reporter your name and address.

(The statement submitted by Mr. Hooton follows:)

STATEMENT OF DR. CARADINE R. HOOTON, GENERAL SECRETARY, THE BOARD OF TEMPERANCE OF THE METHODIST CHURCH

Mr. Chairman and members of the committee, my name is Caradine R. Hooton. I have lived for the past 8 years in the Methodist Building at 100 Maryland Avenue NE. As general secretary of the board of temperance I could bring you documentary evidence of widespread damage to persons and to society which comes as a result of the uses of alcoholic beverages.

Indeed, leading physicians of the Nation agree with Dr. Haven Emerson, well-known public-health authority, that one of the greatest perils America faces today is the danger that its citizens may drug themselves into relative inferiority.

It is an established pattern across America that among the multitudes that are arrested for infractions of the law, the most frequent rationalization offered is that "I had a beer or two."

THE PROBLEM OF JUVENILE DELINQUENCY

Every American citizen should contemplate the fact that alcohol is a major contributing factor to the highest crime rate in the Nation's history. According to the FBI's recent Uniform Crime Reports for 1956 nearly 60 percent of all arrests reported to the FBI last year were alcohol-related.

One of the key factors in this tragic situation is the 17½ percent increase in juvenile arrests during the year 1956. You will recall that Mr. Hoover commented that, "Crime has increased almost four times as fast as the Nation's population since 1950."

The 85th Congress has wrestled courageously with the causes and problems of increasing juvenile delinquency. Though admittedly the contributing factors to youthful deviation are not always clear, it is apparent to every thinking person that the consumption of alcoholic beverages is, at the very least, a complicating factor in this complex problem.

We have strong reasons to believe that much of the avoidable trouble in this area comes from the sale of alcoholic beverages through grocery stores. The availability of intoxicants where legitimate foodstuffs are sold presents beer as a harmless commodity which can be purchased and consumed along with necessities and without harmful consequences.

When it is drilled into the thinking of American families that "beer belongs" it is but natural that boys and girls would develop a curiosity to use it. Seeing it in the grocery stores constitutes a temptation that we believe is wholly unfair, positively misleading and in the light of consequences, particularly unconscionable.

The second danger of these attractive displays of conveniently cartoned beverages is that juveniles may make sneak purchases, supposedly for the family icebox and at the parents' request.

The passage of this current bill would undoubtedly make more easily available to juveniles quantities of beer, the purchase and consumption of which will most

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certainly create new and more complex problems for families and authorities of the District of Columbia.

THE INCIDENCE OF ALCOHOLISM

Another major problem confronted by District of Columbia officials has been the unusually high rate of alcoholism among its residents. Recent studies by the Yale University Center of Alcohol Studies show a direct relationship between the incidence of alcoholism and the consumption of alcoholic beverages. To put it another way, the more beer sold, the greater the problems of alcoholism. This is fact not fancy.

Only last week Dr. E. M. Jellinek, a noted scientist formerly of the Yale Laboratories and now one of the officials of the World Health Organization, visited my office. He told me that in a study involving 11 nations he had found a direct relationship between alcoholism and the total consumption of alcohol. Dr. Jellinek's observation is the absolute finding of many scientists whose accuracy cannot be questioned.

If by the passage of this bill we should multiply the number of outlets for alcoholic beverages, we will greatly enlarge the risks of alcoholism, deviation, and moral damage to the growing numbers who will thus be encouraged to use alcoholic beverages.

As only one of the many examples of the role which beer repeatedly plays in the juvenile delinquency problem, we offer a clipping from this morning's "Washington Post" headlined "Beer-Drinking Son Kills Mother and Baby Sitter."

Mr. Chairman and friends, on behalf of the parents, law-enforcement officers, teachers, churches, and responsible citizens of the District, I most humbly plead with you to protect residents and the youth of the Nation's Capital by a definite rejection of this proposed measure, H R 2510.

The CHAIRMAN. Mr. Chester C. Shore, chairman of the District of Columbia Legislative Council.

Mr. Clayton Wallace, National Temperance League.

STATEMENT OF CLAYTON M. WALLACE, EXECUTIVE DIRECTOR, NATIONAL TEMPERANCE LEAGUE, INC.

Mr. WALLACE. Mr. Chairman, my name is Clayton M. Wallace. I reside at 120 Maryland Avenue NE., in Washington, and I am executive director of the National Temperance League.

The National Temperance League is a national federation of 44 State temperance organizations. It is both interdenominational and omnipartisan in character. Its national headquarters are at 131 Independence Avenue SE., Washington 3, D. C.

The president of the national organization is Dr. Duke K. McCall, president of the Southern Baptist Theological Seminary in Louisville, Ky. Its secretary is Herbert H. Hill of Seattle, Wash., and the treasurer is Pierrepont E. Twitchell of Long Island, N. Y.

The principal effect of this bill (H. R. 2510) if enacted, would be to remove the restriction that has existed for the past 23 years in the District of Columbia liquor control law that has prevented chain grocery stores from holding a retail license for the sale of beer and light wines by the package for off-premise consumption in more than one store in the Nation's Capital. The bill would legalize the sale of beer and light wines in all grocery stores operated by a chain that sought and obtained the necessary licenses.

The constituency represented by the league is opposed to the bill for the following reasons:

1. There is no need for additional retail licenses for the sale of beer and light wines by the package. There are at present in force in the District: 388 class A retail licenses permitting the sale of all types of liquor by the package for off-premise consumption; 516 class B retail

licenses permitting the sale of beer and light wines by the package for off-premise consumption; 572 class C retail licenses, restaurant, hotel, club, dining car, etc., permitting the sale of beer, wine and spirits; 173 class D retail licenses, restaurant, tavern, hotel, etc., permitting the sale of beer and light wines for consumption on the premises.

Counting all classes of licenses there are 1,649 places in the District of Columbia where alcoholic beverages may be purchased at retail. Those citizens who desire to purchase alcoholic beverages now have an adequate source of supply.

2. Under the decisions of the United States Supreme Court the sale of alcoholic beverages is a privilege—not a right. Their sale is subject to the fullest exercise of the police power. They are in law and in fact in a different category from innocuous commodities. The degree of restriction upon their manner of sale rests in the discretion of Congress as the lawmaking body for the Nation's Capital. The Congress which enacted the beverage control law for the District of Columbia in 1934 saw fit to exclude their sale from chain groceries generally. There were sound reasons for the regulation at that time.

3. Beer is not a food and its sale is not an ordinary or usual function of the seller of food products. In the case of the independent grocer, who is more likely to be a local resident and a property owner, the Congress left the decision to him as to whether he desired to apply for a retail beer or wine license. The chainstore, on the other hand, is a corporation often controlled by individuals outside of the District of Columbia. Today, when the small independent-business man is finding it hard to compete with big business, there is little justification to open up the beer and wine market to the chainstore corporation and thus increase the competition and the trend toward monopoly.

The Congress also recognized that under modern conditions a large percentage of grocery sales is made through the chainstore. These stores are patronized by the entire family, children as well as adults. There are many parents who do not care to have their children frequent establishments where alcoholic beverages are sold. Under the present policy established by Congress those citizens who do not care to patronize stores selling alcoholic beverages have markets where they may shop free of the presence of all alcoholic beverages, while those citizens desiring to purchase beer or wine have access to stores that handle such products. If this amendment is adopted and one chainstore puts in beer and wine other chainstores will consider that they have to follow suit to meet competition. The result will be that the class of citizens who dislike alcoholic beverages establishments will be forced to forego the economic saving of cheaper food prices usually resulting from chainstore operations or submit to marketing conditions of which they do not approve. In our opinion, there is no need or justification for such a policy.

The chainstore corporations are also among the largest advertisers of their wares. They naturally are constantly trying to increase sales. One advertisement of a chainstore usually applies to all stores within the District of Columbia operated by the chain. Under the present law the independent grocer holding an off-premise beer-and-light-wine license cannot afford to engage in such extensive sales promotion as the chainstores. This bill would, in our opinion, greatly increase the advertising propaganda for the consumption of beer and wine in Washington.

The District of Columbia has one of the highest per capita consumptions of alcoholic beverages in the country (25.6 gallons), being exceeded only by Wisconsin and Nevada.

The Board of Commissioners of the District of Columbia unanimously authorized at its regular meeting on October 30, 1956, a comprehensive study of overcrowding in the correctional institutions, and also, of existing probation and parole facilities, policies and practices in the District of Columbia.

This committee of 11 members presented its 210-page report under the caption of "Prisons, Probation and Parole in the District of Columbia," April of 1957. Excerpts from this report, together with appropriate comments, follow:

ALCOHOLISM, A SERIOUS PROBLEM

There are nearly 50,000 alcoholics in the Nation's Capital City—averaging 7.8 percent of every 100,000 adults. Nearly 40,000 arrests for intoxication were made by the Metropolitan Police during fiscal year 1956. More than 16,000 of these arrests resulted in commitments to our prisons, where the daily average "drunk" population exceeds 1,200. Many of those who are incarcerated leave wives and children destitute and entirely dependent upon subsistence payments by the Department of Welfare.

More than 1,600 chronic alcoholics a year—every other male admitted—are brought in in a state of delerium tremens, to the psychiatric service of the District of Columbia General Hospital for an average stay of 5 days at public expense. Another 1,000 individuals—the hopeful cases—voluntarily seek help of the alcoholic rehabilitation program operated by the Department of Public Health. Finally, hundreds of vagrants—chronic alcoholics—burden our private welfare agencies and missions with their constant need for food, shelter, clothing, and other necessities of life.

The report on page 83 shows that intoxication cases crowd the prisons. Here is the record for the fiscal year 1956:

Sent to the jail:

16,287 for intoxication.
1,221 for disorderly conduct and vagrancy (which are related to intoxication).
4,774 for other misdemeanors.

Sent to the workhouse:

13,341 for intoxication.
1,031 for disorderly conduct and vagrancy.
2,421 for other misdemeanors.

COST THE TAXPAYERS ALMOST \$2 MILLION A YEAR

The costs are enormous. Estimates, prepared on the direct costs only, show that police processing of drunks costs \$36,000 a year; court salaries involved at \$76,000 a year; incarceration in prison, \$1,204,000 a year. In addition, the alcoholic rehabilitation program costs \$75,000 annually and the psychiatric services of the District of Columbia General Hospital cost \$80,000 a year. Chronic alcoholics, therefore, are costing the taxpayers of the District of Columbia almost \$2 million a year.

Courtrooms are filled with them; so are the jails. Intoxication is costing the people of our Nation enormous sums of money, vast amounts of time and energy. Arrests for intoxication in the District of Columbia have increased 300 percent since 1900 (per 100,000 population).

ARRESTS FOR INTOXICATION AT AN ALLTIME HIGH

The alcoholic problem in the District of Columbia, as reflected in the number of arrests for intoxication in ratio to the general population, has grown steadily worse over the last 50 years. From the standpoint of overworked police, courts, overcrowded prisons, and limited community facilities for dealing with the alcoholics, the problem is worse. We are now making more arrests involving more individual alcoholics than at any time during the last 50 years, and, in fact, we are making nearly 100 percent more drunk arrests than in 1940.

Statistics indicate that there is a relationship between the quantity of alcoholic beverages consumed and the rate of alcoholism in any given area.

In the light of the report made to the District of Columbia Commissioners, above quoted, there would seem to be little justification for an amendment to the law that would undoubtedly increase the demand for retail beer and wine licenses for off-premise consumption and increase the advertising pressure for the drinking of such beverages. The reasons that existed when Congress originally enacted the restriction still obtain, but with even greater potency.

We respectfully urge that the bill not be enacted.

The officers of our organization are listed in my statement. It should include Rev. George Epp, our first vice president, of Harrisburg, Pa.

The principle of the bill is covered pretty thoroughly in the statement and has been covered before.

I would like to call attention to the foregoing four classes of licenses in the District:

Three hundred and eighty-eight class A retail licenses; 516 class B, which are the off-sale beer and light-wine licenses; 572 class C; and 173 class D, making a total of 1,649 places in the District of Columbia where alcoholic beverages may be purchased at retail.

I would like to say, in connection with this 516 class B retail licenses, yesterday I called the Washington Board of Trade, who told me there are 206 chain grocery stores in the District which, if they obtained licenses under this bill, would increase by 40 percent the off-sale retail licenses in the District, a pretty large increase.

It has been covered before, but I would like to mention that, under the decisions of the United States Supreme Court, the sale of alcoholic beverages is a privilege and not a right. It is an industry which has required two amendments to the United States Constitution to try to handle the industry, and still we have constantly recurring problems.

The CHAIRMAN. And your organization opposes this legislation?

Mr. WALLACE. That is right; I should have said that, and I hope you have detected my opposition in what I have been trying to say here.

The CHAIRMAN. Your statement is in support of your opposition?

Mr. WALLACE. That is right. If I may, I would like to again refer to the study of matters of alcoholism in the District of Columbia which have not been touched in this hearing, and the report made by the District appears under the caption, "Persons, Probation and Parole in the District of Columbia," April 1957—it is a 210-page report, and it points up that alcoholism is a serious problem in the District. Where more alcoholic beverages are made available, the problem of alcoholism will increase.

May I call to your attention that the District of Columbia has the highest rate of alcoholism of any area in the Nation. We have 7,800 alcoholics in the District per 100,000 adult population. The next highest is the State of California, where they have something over 7,000 alcoholics, but the District of Columbia has the highest number.

The record shows that there are nearly 50,000 alcoholics here. There were nearly 40,000 arrests for intoxication during the year 1956.

The daily average drunk population of the District exceeds 1,200. More than 1,600 chronic alcoholics a year have treatment at the

General Hospital. Another thousand individuals—the hopeful cases—voluntarily seek help, and, finally, there are hundreds of vagrants who are constantly in need of help. I know that a number of them appeal to churches and pastors for their assistance.

The CHAIRMAN. Thank you very much.

We have to go and appear on the floor in just a second.

Dr. Schmidt, do you have a statement you would like to submit?

STATEMENT OF DR. J. RAYMOND SCHMIDT

Dr. SCHMIDT. Mr. Chairman, I have requested the privilege of testifying in opposition to H. R. 2510 as a citizen of the District of Columbia, as general superintendent of the National Civic League and as national superintendent of legislative work for the International Order of Good Templars, America's oldest temperance society, founded in 1852.

Passage of H. R. 2510 would license about 117 chain grocery stores for the sale of beer to be consumed in the homes of the District of Columbia. Back in January 1957, I was informed by the Alcoholic Beverage Control Board that there were then 1,650 licensed outlets for the sale of all kinds of alcoholic beverages.

At that time, Washington was getting some publicity that didn't exactly please Commissioner David Karrick. Rev. Howard J. Clinebell, Jr., in an address on January 24 before the annual dinner meeting of the Methodist Board of Temperance at the Dodge Hotel, was quoted by the press as saying that—

Washington's 49,450 alcoholics, averaging 7.8 percent of every 100,000 adults, is way ahead of the national rate of 4,390 for every 100,000 adults.

Dr. Clinebell told the gathering that, of the 12 countries—

whose rates of alcoholism have been estimated with some accuracy, the United States is so far out in front she has lapped the field. Since our country leads the world in alcoholism and Washington leads the country, it seems to me that the city has a clean claim to the title of "alcoholic capital of the world."

On January 27 the Washington Evening Star reported that Commissioner Karrick had objected to Washington being called the alcoholic capital of the world. Doubtless, Mr. Karrick hadn't received a copy of the bulletin of the District of Columbia Department of Public Health for July 1956, which carried this statement:

The highest rate of alcoholism in 1953 was recorded in the District of Columbia: 7,800 per 100,000 adults.

It is significant that this is the same rate of alcoholism quoted by Reverend Clinebell at the Methodist Board of Temperance banquet.

Should there be any surprise on the part of Mr. Karrick, or anyone else, for that matter, that alcoholism has swamped the Nation's Capital? With 1,650 more licensed liquor stores, taverns, restaurants, and hotels striving to increase their sales, there is little wonder that France can no longer keep up with Washington in the number of chronic alcoholics and heavy problem drinkers.

The licensing of 117 grocery stores to sell beer for consumption in the homes of the District of Columbia will only aggravate an already deplorable situation. Worst of all, mothers and teen-age boys and girls will develop the drinking habit at such an alarming rate that juvenile delinquency will spread on a scale never dreamed possible.

As surely as the members of the House District Committee seek to make Washington a model city for the country at large, there appears no other alternative than to scuttle H. R. 2510 at the earliest possible moment.

The CHAIRMAN. Thank you very much, sir.

I have several statements here, and, without objection, we will have them inserted in the record.

(The statements referred to follow:)

STATEMENT OF DR. J. RAYMOND SCHMIDT ON JULY 15, 1957, BEFORE THE HOUSE DISTRICT OF COLUMBIA COMMITTEE

Mr. Chairman, I have requested the privilege of testifying in opposition to H. R. 2510 as a citizen of the District of Columbia, as general superintendent of the National Civic League, and as national superintendent of legislative work for the International Order of Good Templars, America's oldest temperance society founded in 1852.

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As surely as the members of the House District Committee seek to make Washington a model city for the country-at-large, there appears no other alternative than to scuttle H. R. 2510 at the earliest possible moment.

FEDERATION OF BUSINESS MEN'S ASSOCIATIONS, INC.,
Washington, D. C., July 8, 1957.

Hon. WILLIAM N. MCLEOD, Jr.,
Clerk, House District Committee, House of Representatives,
Washington 25, D. C.

DEAR SIR: At the last meeting of the Federation of Business Men's Associations, Inc., a resolution was unanimously adopted to go on record opposed to H. R. 2510 introduced by Mr. Smith of Virginia which is a bill to amend the Alcoholic Beverage Control Act of the District of Columbia of 1934, as amended.

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The Federation of Business Men's Associations, Inc., respectfully request that you insert in the record our opposition to this bill. Thanking you, I remain
Very truly yours,

HOWARD G. BONNETT,
Secretary, Federation of Business Men's Associations, Inc.

PEOPLE'S CONGREGATIONAL CHURCH,
Washington, D. C., July 15, 1957.

The CHAIRMAN, HOUSE DISTRICT COMMITTEE,
Room 445, Office of the House of Representatives.

GENTLEMEN: The undersigned is minister in People's Congregational Church, now a member of the new denomination designated United Church of Christ. I have been minister in this church for more than 30 years, presently serving as president of the Washington Ministerial Union, the organization which embraces the Protestant ministers of this city.

I was present at the hearing on the bill H. R. 2510 this morning, but did not get an opportunity to present my protest. I would like this statement to be joined to those of the others protesting the passage of this bill.

We have in this city already 88 retail stores above the acknowledged limit of 300. When you add the 27 wholesale outlets and perhaps 400 other stores permitted to sell wine and beer, there is no other conclusion to be made from this than that Washington has already too many outlets for the sale of alcoholic beverages. The more places we have for the distribution of liquors, the easier we make it possible for the citizens to spend more money on these items than on food. Moreover, when the sale of wine and beer is put at their disposal in large chainstores, we expose more of our children to the temptation and consequences which follow from more drinking.

More and more of our residential areas are being pestered with people who buy and seek the open streets or nearby alleys for the consumption, adding to these neighborhoods the nuisance of empty bottles and beer cans.

These are among the reasons which enter into my personal conviction, a conviction supported by my colleagues in the ministry, that to increase the outlets for the sale of alcoholic beverages is against the welfare of the people of this community.

Respectfully yours,

A. F. ELMES.

THE NATIONAL TEMPERANCE LEAGUE, INC.,
Washington, D. C., July 17, 1957.

Hon. JOHN L. McMILLAN,
Chairman, House District of Columbia Committee, Washington, D. C.

DEAR MR. McMILLAN: I wish to express my appreciation of your courtesy in permitting me to file, as executive director of the National Temperance League, Inc., this brief statement of the objections of the organization to the passage of H. R. 7300.

If passed, this bill, in our judgment, would be capable of being construed as a directive from Congress to the District of Columbia Alcoholic Beverage Control Board to the effect that, in any area changed to a residential district by the Zoning Commission, no retailer of liquor holding a license within the rezoned area should lose his license but should be entitled to arrange for an annual renewal thereof if the other provisions applicable to the granting of the retail liquor license were met.

In our judgment, this bill would violate sound principles of license control since it would, in effect, be special legislation in the aid of a class of retail liquor dealers of an implied right of continued annual renewal of their license not applicable to retail liquor dealers generally. It would, therefore, be special legislation discriminating in favor of one class of liquor retailers not applicable to others as to their right of expectancy to continue in business.

The United States Supreme Court long ago established the principle that a liquor license was a privilege, not a right, and that it conferred no property rights beyond the year for which it is issued. Congress, in 1934, when it enacted the Alcoholic Beverage Control Law for the District of Columbia, provided, in section 15:

"No retailer's licenses except of class E shall be issued for any business conducted in a residential-use district as defined in the zoning regulations and shown in the

official atlases of the Zoning Commission except for a restaurant or tavern conducted in a hotel, apartment house, or club, and then only when the entrance to such restaurant or tavern is entirely inside of the hotel, apartment house, or club and no sign or display is visible from the outside of the building."

The proposed bill would make a change in policy and would violate sound principles of zoning as well as of liquor control by granting to certain retail liquor dealers an implied assurance of the continuance of their licenses in a district rezoned for residential use for an indefinite number of years, a privilege not extended to merchants or dealers selling essential commodities within the rezoned area. Sellers of necessary commodities would either have to move or go out of business, but if this bill were passed by Congress it would grant to retailers of liquor a concession not extended to other commercial enterprises. This would appear to be a form of unwarranted favoritism and constitutes a serious discrimination against essential businesses.

The object of zoning is to prevent nonconforming uses. When the character of a neighborhood is changed to such an extent as to justify its being classified as "residential," the aim should be to preserve and protect the residential features of the district. This bill would, in effect, state to the resident of an area rezoned as residential: The statutory protection extended residents of other residential areas has no meaning for you since the continuance of a retail liquor license in such rezoned residential districts would, in the final analysis, rest with the ABC Board. This would be contrary to the basic concept of zoning.

The residents of such rezoned areas would also be without the protection from the courts against continuance of a retail liquor license in the rezoned area. The courts hold that where discretionary authority is granted an administrative body to grant or refuse licenses the court will not substitute their judgment for the discretion of the administrative agency which has been given jurisdiction over the granting of licenses.

There is the further objection, therefore, that the holder of a retail liquor license in a district rezoned residential would appear to be granted a quasi-vested right to continue in business paramount to the right of scores of residents and property owners who otherwise would be entitled because of the change of character of the neighborhood to the exclusion of commercial operations in the section in which they bought or lived. In this sense, therefore, the bill would seem to put the rights to sell liquor above the rights of a larger number of citizens who own property or reside in the area. For these reasons, we respectfully urge that the bill not be favorably reported.

Yours sincerely,

CLAYTON M. WALLACE,
Executive Director.

ALCOHOL INFORMATION LEAFLET

THE NATIONAL TEMPERANCE LEAGUE, INC.

Norman E. Dettra, research secretary, Washington, D. C.

HIGH COST OF HANDLING ALCOHOLICS IN THE DISTRICT OF COLUMBIA

The Board of Commissioners of the District of Columbia unanimously authorized at its regular meeting on October 30, 1956, a comprehensive study of over-crowding in the correctional institutions, and also, of existing probation and parole facilities, policies, and practices in the District of Columbia.

This committee of eleven members presented its 210-page report under the caption of "Prisons, Probation, and Parole in the District of Columbia," April of 1957.

(Excerpts from this report, together with appropriate comments follow:)

"ALCOHOLISM, A SERIOUS PROBLEM

"There are nearly 50,000¹ alcoholics in the Nation's Capitol City—averaging 7.8 percent of every 100,000 adults. Nearly 40,000 arrests for intoxication were made by the Metropolitan Police during fiscal year 1956.² More than 16,000 of these arrests resulted in commitments to our prisons, where the *daily average* 'drunk' population exceeds 1,200. Many of those who are incarcerated leave wives and children destitute and entirely dependent upon subsistence payments by the Department of Welfare.

¹ Prevalence of Alcoholism Data 1953-55; Yale University, Center of Alcoholic Studies.

² Metropolitan Police Record (District of Columbia.)

"More than 1,600 chronic alcoholics a year—every other male admitted—are brought in in a state of delirium tremens, to the psychiatric service of the District of Columbia General Hospital for an average stay of 5 days, at public expense. Another 1,000 individuals—the hopeful cases—voluntarily seek help of the alcoholic rehabilitation program operated by the Department of Public Health. Finally, hundreds of vagrants—chronic alcoholics—burden our private welfare agencies and missions with their constant need for food, shelter, clothing, and other necessities of life."

The report on page 83a shows that *intoxication cases crowd the prisons*. Here is the record for the fiscal year 1956:

Sent to the jail:

16,287 for intoxication
1,221 for disorderly conduct and vagrancy (which are related to intoxication)
4,774 for other misdemeanors

Sent to the workhouse:

13,341 for intoxication
1,031 for disorderly conduct and vagrancy
2,421 for other misdemeanors

"COST THE TAXPAYERS ALMOST \$2 MILLION A YEAR

"The costs are enormous. Estimates, prepared on the direct costs only, show that police processing of 'drunks' costs \$36,000 a year; court salaries involved at \$76,000 a year; incarceration in prison \$1,204,000 a year.³ In addition, the alcoholic rehabilitation program costs \$75,000 annually and the psychiatric services of the District of Columbia General Hospital cost \$80,000 a year. Chronic alcoholics therefore are costing the taxpayers of the District of Columbia almost \$2 million a year.

"Courtrooms are filled with them, so are the jails. Intoxication is costing the people of our Nation enormous sums of money, vast amounts of time and energy. Arrests for intoxication in the District of Columbia have increased 300 percent since 1900 (per 100,000 population).

"ARRESTS FOR INTOXICATION AT AN ALL-TIME HIGH

"The alcoholic problem in the District of Columbia, as reflected in the number of arrests for intoxication in ratio to the general population has grown steadily worse over the last 50 years. From the standpoint of overworked police, courts, overcrowded prisons, and limited community facilities for dealing with the alcoholics, the problem is worse. We are now making more arrests involving more individual alcoholics, than at any time during the last 50 years and, in fact, we are making nearly 100 percent more 'drunk' arrests than in 1940.

District of Columbia arrests for intoxication⁴ by fiscal year

Fiscal year	Arrests for intoxication	Population	Arrests per 1,000 population
1956.....	39,506	* 859,000	46.0
1950.....	37,736	802,178	47.0
1940.....	20,734	663,091	31.3
1930.....	14,409	496,860	29.6
1920.....	3,565	437,571	8.1
1910.....	3,274	331,060	9.9
1900.....	4,188	278,718	15.0

*Estimated by the Bureau of Census.

"COMMITMENTS TO WORKHOUSE

"The District of Columbia Workhouse, located near Occoquan, Va., is a minimum security facility for misdemeanants. All prisoners received at the workhouse are processed through the jail.

"Generally speaking, prisoners with sentences of 5 days are confined to the jail, while those with more than 5 days and less than 1 year are transferred to the workhouse." During the fiscal year of 1956, 16,591, or 81 percent of all those who were

³ Prisons, probation and parole in the District of Columbia, April 1957 (p. 84).

⁴ Ibid, p. 88.

⁵ Ibid, p. 39.

committed to the workhouse were charged with crimes directly related to alcoholic beverages.

"District of Columbia crimes for which committed to workhouse, fiscal year 1956

Assaults	323
Larceny and thefts	427
Liquor law violations	128
Traffic violations	299
Disorderly conduct and vagrancy	1,031
Nonsupport, child born out of wedlock	478
Intoxication	13,341
Housebreaking	122
Carrying dangerous weapons	100
Miscellaneous	342
Total	16,591

"13,469 commitments, or 81 percent of total, alcohol related.

"LARGE NUMBER OF PERSONS INVOLVED IN ARRESTS ⁶

"The number of actual persons arrested is far more important than the number of arrests in terms of overcrowded courts and prisons. The study prepared for the committee by the Metropolitan Police Department shows that, during the 6-month test period (January 1 to June 30, 1956) 13,687 individuals were arrested for intoxication, for a total of 20,634 separate arrests."

"Fifty percent of the 'drunk' arrests in Washington are on Saturday and early Sunday."

	Arrests	Percent of total
Sunday	3,724	18
Saturday	6,352	31
Total	10,076	49

NOTE.—Total arrests for the week, 20,634.

"The average person arrested for drunkenness during the test period was arrested 1.5 times for the same offense during the period. More than 1,600 persons were arrested 3 or more times, for a total of more than 6,000 arrests and although representing less than 11.6 percent of the total number of persons arrested for drunkenness, they accounted for 29 percent of the total arrests.

"There were 4,399 persons arrested and charged with intoxication during the test period who show no record of previous arrests for the offense. That means that 32 percent of the 13,687 persons arrested were first offenders.

"Repeaters accounted for 9,288, or 68 percent of the total number of arrests. Police records show that the average person arrested for intoxication during the test period had a record of 12 prior arrests for the same offense.

"Nearly 6,000 of the individuals had more than 4 previous arrests for intoxication; 1,890 persons had records of 20 through 99 arrests; 161 persons had from 100 through 199 arrests, and 15 persons had from 200 through 399 arrests for intoxication."

CASE NO. 1

Several cases are reported showing the total repeat commitments of persons guilty of drunkenness. We quote from one:

Inmate No. 46 has spent 25 years (9,066 days) in prison for intoxication. He has been sentenced to jail terms 285 times. He began drinking when he was 22 years old. He has a high-school education and is 54 years old.

⁶ Ibid, p. 93, 94.

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"Joe" cost the taxpayers of the District of Columbia:⁷

Police and court costs, at \$60 per sentence	-----	\$17, 100
Jail keep, \$2.86 a day	-----	25, 929
Hospital care, 140 days treatment for DT and other ailments	-----	1, 400
 Total cost	-----	44, 429
Less 52 fines paid by subject	-----	510
 Net cost to date	-----	43, 919

Summary

Alcoholics in Washington, D. C.	-----	50, 000
Arrests for intoxication in 1956	-----	40, 000
Of these arrests resulted in commitments	-----	16, 000
The daily average "drunk" population in prisons	-----	1, 200
Chronic alcoholics a year treated in District of Columbia General Hospital	-----	1, 600
Direct costs of drunkenness to taxpayers of District of Columbia	\$2, 000, 000	
Arrests for intoxication in 1956 (alltime high)	-----	39, 506
Commitments for alcohol-related crimes	-----	13, 469
"Drunk" arrests in District of Columbia are on Saturday and Sunday (percent)	-----	49
Cost of 1 person's drunkenness to District of Columbia	-----	\$43, 919

Although the residents of the District of Columbia are disfranchised and have no local option on the sale of alcoholic beverages they must pay heavy taxes to care for the costs of drunkenness, alcohol-related crimes and accidents, plus alcoholism.

THE DISTRICT OF COLUMBIA,
Washington, July 17, 1957.

Hon. JOHN L. McMILLAN,
Chairman, Committee on the District of Columbia,
House of Representatives, Washington, D. C.

MY DEAR MR. McMILLAN: I have been informed that after I left the hearing on H. R. 2510, having to do with sale of beer in chainstores, one of the ~~witnesses~~ stated before your committee that the percentage of arrests for drunkenness in the District of Columbia was the highest of any in the United States.

This may be statistically true if the District is considered as the 49th State and its statistics compared with those of all of the other States. However, such a comparison is not only meaningless but specifically unfair to the District of Columbia which, whatever it may be politically, is sociologically and economically a municipality.

Therefore, arrests for drunkenness in the District of Columbia should be compared with those in other cities and not those in other States.

We do not have to go far away for an apt illustration; all that is necessary is to examine our good neighbor, the State of Maryland. It is utterly irrelevant to compare the arrests for drunkenness for the District with those for the State of Maryland with its enormous rural areas, where both drunkenness and arrests therefor are rare.

Rather arrests in the District for the foregoing offense should be compared to those in Baltimore, Buffalo, Philadelphia, New York, Pittsburgh, Chicago, and other metropolitan areas of concentrated city population. In such comparisons the District does not stand unfavorably but I will not burden you nor the members of your extremely able committee with statistics to establish the foregoing obvious conclusion.

Furthermore, even such statistics are often meaningless because some cities do not arrest for drunkenness unless it is accompanied by disorderly conduct (I am informed that in downtown New York a quiet sleeping drunk is ignored). And even in cities where drunkenness is a cause for arrest, there are varying interpretations and attitudes on what degree of intoxication constitutes drunkenness.

It is requested that this letter be incorporated in the record of the hearing.

⁷ Based on p. 81, U. S. News & World Report, April 19, 1957.

NOTE.—Emphasis added.

Thanking you again for your courtesy in hearing the representatives of the District government today and on Monday of this week, I am, with cordial personal regards as always,

Very sincerely yours,

DAVID B. KARRICK,
Commissioner, District of Columbia.

The CHAIRMAN. If there is anyone who didn't get to present his statement, if he cares to leave it with the reporter, or if he wants to send it in in the next day or two, we will be glad to include it in the record.

The committee stands adjourned.

(Whereupon, at 12:15 p. m., the committee adjourned, to reconvene at the call of the Chair.)

X

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